



National Press Building, 529 14th Street NW, Suite 1201, Washington, DC 20045
p: 202-628-9195 * www.opendebates.org * f: 202-628-9196

February 19, 2004

MUR # 5414

Lawrence H. Norton
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Dear Mr. Norton :

Re: Complaint against the Commission on Presidential Debates

Pursuant to the Federal Election Campaign Act of 1971, as amended, and upon information and belief, this complaint outlines violations of the Federal Election Campaign Act and Federal Election Commission regulations regarding the staging of presidential debates by the Commission on Presidential Debates.¹

Overview

I am filing this complaint with the Federal Election Commission against the Commission on Presidential Debates (Respondent). I am the Executive Director of Open Debates. Open Debates is a nonpartisan, nonprofit organization committed to reforming the presidential debate process so as to maximize voter education. This complaint alleges that the Commission on Presidential Debates has violated and continues to violate the Federal Election Campaign Act of 1971, 2 U.S.C § 441b(a), because its staging of general election presidential debates does not fall within the "safe harbor" provision of 2 U.S.C. § 431b(9)(B)(ii). Open Debates requests that the Federal Election Commission prohibit the Commission on Presidential Debates from staging future candidate debates that are partially financed by corporate contributions.

¹ The Commission on Presidential Debates' principal office is located at:
1200 New Hampshire, N.W.
Box 445
Washington, DC 20036

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

RECEIVED
FEC MAIL
OPERATIONS CENTER

2004 FEB 19 P 2 52
2004 FEB 19 P 2: 38

Issues

The Commission on Presidential Debates has violated and continues to violate the Federal Election Campaign Act of 1971, 2 U.S.C § 441b(a), because its staging of general election presidential debates does not fall within the "safe harbor" provision of 2 U.S.C. § 431b(9)(B)(ii), which has been construed by the Federal Election Commission to exempt, under certain circumstances, corporate sponsorship of nonpartisan candidate debates from the general prohibition on corporate contributions. 11 C.F.R § 110.13. The Commission on Presidential Debates accepts corporate contributions to defray the costs of staging general election presidential debates, but it does not stage those presidential debates in accordance with three of the requirements of 11 C.F.R. §110.13: 1) The Commission on Presidential Debates does "endorse, support, or oppose political candidates or political parties;" 2) it does not use pre-established objective criteria as required by 11 C.F.R. §110.13 to determine which candidates may participate in a debate; 3) and its criteria were "designed to result in the selection of certain pre-chosen participants." Consequently, the debates staged by the CPD were and are illegal corporate contributions to the participating candidates, in violation of 2 U.S.C §441b and 11 C.F.R. §114.2(b).

Under the Federal Election Campaign Act of 1971, corporations are prohibited from making contributions or expenditures in connection with federal elections. 2 U.S.C § 441b(a). The Federal Election Commission ("FEC") has promulgated a regulation that defines the term "contribution" to include: "A gift, subscription, loan ..., advance or deposit of money or anything of value made ... for the purpose of influencing any election for Federal office." 11 C.F.R. §100.7(a)(1). "Anything of value" is defined to include all in-kind contributions. 11 C.F.R. §100.7(a)(1)(iii)(A).

In 1979, pursuant to statutory authority, the FEC promulgated regulations that allow corporations to donate funds to a nonprofit staging organization to help defray the costs of conducting debates among competing federal candidates. Section 11 C.F.R. 100.7(b) of the FEC's regulations specifically exempts expenditures made for the purpose of staging debates from the definition of contribution. 11 C.F.R. §100.7(b)(21). This exemption requires that such debates meet the requirements of 11 C.F.R. §110.13, which established parameters within which staging organizations must conduct such debates. The parameters relevant to this complaint are:

1. *Nature of acceptable staging organizations.* With respect to the nature of acceptable staging organizations, 11 C.F.R §110.13(a) provides:

"Nonprofit organizations described in 26 U.S.C. 501 (c)(3) or (c)(4) and which do not endorse, support, or oppose political candidates or political parties may stage candidate debates in accordance with this section and 11 CFR 114.4(f)."

Nonprofit organizations described in 26 U.S.C. 501 (c)(3) or (c)(4) must be "nonpartisan."

2. *Nature of acceptable candidate selection criteria.* With respect to participant selection criteria, 11 C.F.R §110.13(c) provides:

"For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate."

3. *Use of pre-established objective criteria.* When promulgating 11 C.F.R. §110.13(c), the FEC explained its purpose and operation as follows:

"Staging organizations must be able to show that their objective criteria were used to pick the participants, and that the criteria were not designed to result in the selection of certain pre-chosen participants. The objective criteria may be set to control the number of candidates participating in a debate if the staging organization believes that there are too many candidates to conduct a meaningful debate. Under the new rule, nomination by a particular political party, such as a major party, may not be the sole criterion used to bar a candidate from participating in a general election debate. But ... nomination by a major party may be one of the criteria."

If an organization staged a debate among candidates for federal office and that debate was *not* staged in accordance with the three requirements of 11 C.F.R. §110.13 stipulated above, then corporate donations used to defray the costs incurred by the staging organization would constitute illegal contributions to the participating candidates, in violation of 2 U.S.C §441b and 11 C.F.R. §114.2(b).

The CPD

The Commission on Presidential Debates (CPD) has sponsored all general election presidential debates that included the major party candidates since 1988: two presidential debates and one vice-presidential debate in 1988; three presidential debates and one vice-presidential debate in 1992; two presidential debates and one vice-presidential debate in 1996; and three presidential debates and one vice-presidential debate in 2000. The CPD has announced its intention to sponsor the 2004 general election presidential and vice-presidential debates.

As the CPD's own website (www.debates.org) shows, general election presidential debates sponsored by the CPD are primarily funded by corporate contributions. AT&T, Atlantic Richfield, Dun & Bradstreet, Ford Motor Company, Hallmark, IBM, J.P. Morgan & Co., Philip Morris Companies Inc., and Prudential contributed hundreds of thousands of dollars to the CPD to defray the costs of the 1992 presidential debates. Anheuser-Busch, Dun & Bradstreet, Lucent Technologies, Philip Morris Companies Inc., Sara Lee Corporation, and Sprint contributed hundreds of thousands of dollars to the CPD to defray the costs of the 1996 presidential debates. Anheuser-Busch, 3Com and US Airways contributed hundreds of thousands of dollars to the CPD to defray the costs of the 2000 presidential debates.

The CPD has violated and continues to violate FEC regulations governing the staging of general election presidential debates. The CPD has consistently failed to stage these

debates in accordance with the three requirements of 11 C.F.R. §110.13 listed above. Consequently, the CPD does not fall within the "safe harbor" of 2 U.S.C. §431b(9)(B)(ii). The corporate donations to the CPD constituted illegal corporate contributions to participating candidates, in violation of 2 U.S.C §441b and 11 C.F.R. §114.2(b).

Analysis

1. *The CPD is bipartisan – not nonpartisan – and it does "endorse, support, or oppose political candidates or political parties."*

The CPD does "endorse, support, or oppose political candidates or political parties." The CPD supports the Republican and Democratic parties and their respective candidates and opposes all third parties and third party and independent candidates, in violation of 11 C.F.R §110.13(a). In fact, the CPD was created by the Republican and Democratic parties as an extension of the Republican and Democratic parties. (See Exhibit A)

The Democratic and Republican parties initially planned to directly sponsor the presidential debates themselves. In 1984, Democratic National Committee Chairman Charles Mannat and Republican National Committee Chairman Frank Fahrenkopf met several times to discuss joint party sponsorship of the debates. "I am a believer and I think chairman Mannat is that the two major political parties should do everything in their power to strengthen their own position," said Fahrenkopf at the time. "We're party builders."²

The next year, Fahrenkopf and Paul G. Kirk Jr. (who replaced Mannat as Chairman of the Democratic National Committee) participated in the Commission on National Elections, a private study of the election process to which the CPD attributes its creation.³ The study was cochaired by Melvin Laird, a former Republican congressman and secretary of defense, and Robert S. Strauss, a former chairman of the Democratic National Committee and ambassador to the Soviet Union. Strauss had also been the chairman of President Jimmy Carter's reelection campaign in 1980, when independent candidate John B. Anderson was included in the presidential debates over Carter's objections. (Strauss had vociferously criticized the decision of the 1980 debate sponsor – the League of Women Voters -- to include Anderson.⁴)

The Commission on National Elections recommended that the major parties usurp control over the presidential debates:

The commission therefore urges the two parties to assume responsibility

² Howell Raines, "Two Party Chairmen Weigh Plan to Assume Debates' Sponsorship," *New York Times*, 16 May 1984.

³ House Committee on House Administration, *Presidential Debates: Hearing Before the Subcommittee on Elections of the House Committee on House Administration*, 103d Cong., first session, 17 June 1993, Washington, 90. Paul Kirk said, "When Frank and I and our fellow directors created the commission, we were acting as agents of those individuals who served on those prior study commissions."

⁴ T. R. Reid, "Anderson Invited to League Debates," *The Washington Post*, 10 September 1980.

for sponsoring and otherwise ensuring that presidential candidate joint appearances are made a permanent and integral part of the presidential election process. If they do so, the commission believes that the parties will strengthen both the process and themselves....

Major questions remain regarding the equal time requirements for television coverage of party versus independent or third-party candidates. Yet in the commission's judgment, the importance of television forums argues for erring on the side of favoring the party nominating processes rather than the rights of other candidates.⁵

On November 26, 1985, six months after the publication of the Commission on National Elections study, Frank Fahrenkopf and Paul Kirk, still chairmen of their respective major parties, authored a one-page Memorandum of Agreement on Presidential Candidate Joint Appearances:

It is our bipartisan view that a primary responsibility of each major political party is to educate and inform the American electorate of its fundamental philosophy and policies as well as its candidates' positions on critical issues. One of the most effective means of fulfilling that responsibility is through nationally televised joint appearances conducted between the presidential and vice-presidential nominees of the two major political parties during general election campaigns. Therefore, to better fulfill our parties' responsibilities for educating and informing the American public and to strengthen the role of political parties in the electoral process, it is our conclusion that future joint appearances should be principally and jointly sponsored and conducted by the Republican and Democratic National Committees.⁶

In 1986, the Democratic National Committee and the Republican National Committee actually ratified an agreement between Fahrenkopf and Kirk "for the parties to take over presidential debates."⁷ Fifteen months later, Fahrenkopf and Kirk held a news conference announcing the incorporation of the CPD: "We have no doubt that with the help of the Commission we can forge a permanent framework on which all future presidential debates between the nominees of the two political parties will be based."⁸ That same day, the Democratic and Republican parties issued a press release calling the CPD "a bipartisan, non-profit, tax-exempt organization formed to implement joint sponsorship of general election presidential and vice-presidential debates, starting in 1988, by the national Republican and Democratic committees between their respective nominees."⁹ (See Exhibit A) For the next eighteen months, Fahrenkopf and Kirk served as co-

⁵ <http://www.debates.org/pages/report.html#findings>

⁶ Frank Fahrenkopf and Paul Kirk, *Memorandum of Agreement on Presidential Candidate Joint Appearances*, 26 November 1985.

⁷ "G.O.P. Seeks a City for '88," *New York Times*, 26 January 1986.

⁸ "News from the Democratic and Republican National Committees," 18 February 1987.

⁹ *Ibid.*

chairmen of their parties and co-chairmen of the CPD simultaneously, and made no effort to conceal their contempt for third-party candidates. The *New York Times* reported:

In response to questions, Mr. Fahrenkopf indicated that the new Commission on Presidential Debates, a nonprofit group made up of representatives from each party, was not likely to look with favor on including third-party candidates in the debates. He said the issue was a matter for the commission to consider when it worked out the format, timing and other details of the debates with the candidates. Mr. Kirk was less equivocal, saying he personally believed the panel should exclude third-party candidates from the debates.¹⁰

Fahrenkopf and Kirk are still the co-chairs of the CPD, and the rest of the CPD is dominated by Republicans and Democrats. In addition to Fahrenkopf, three CPD directors are Republican Party loyalists: former senator John Danforth from Missouri, former senator Alan K. Simpson from Wyoming, and Congresswoman Jennifer Dunn from Washington. In addition to Kirk, four CPD directors are Democratic Party loyalists: Caroline Kennedy Schlossberg, daughter of the late President John F. Kennedy; Newton Minow, who served as special assistant to Democratic presidential candidate Adlai E. Stevenson; H. Patrick Swygert, who served as an assistant to Democratic Congressman Charles Rangel; and Antonia Hernandez, who served as counsel to the Senate Committee on the Judiciary, then chaired by Democratic Senator Ted Kennedy. Former presidents Gerald Ford, Jimmy Carter, Ronald Reagan, and Bill Clinton are the honorary co-chairmen of the CPD. Janet Brown, the executive director of the CPD, is a registered Republican and once served as press secretary to then senator John Danforth.¹¹

As the *St. Louis Post-Dispatch* reported in 2000, "The nonprofit commission, founded by former chairmen of the national Republican and Democratic committees, has a board stocked with nothing but Democrats and Republicans."¹²

The CPD directors believe in a two-party system, and most are contemptuous of third-party and independent candidates. Newton Minow, vice-chairman of the CPD, wrote:

Because debates are political events, responsibility for them should rest with the political system--with the Democratic and Republican Parties.... Although entrusting such debates to the major parties is likely to exclude independent and minor-party candidates, this approach is consistent with the two-party system. Moreover, if the Democratic and Republican nominees agreed, other candidates could be included.¹³

¹⁰ Phil Gailey "Democrats and Republicans Form Panel to Hold Presidential Debates," *New York Times*, 19 February 1987.

¹¹ <http://www.debates.org/pages/lead.html>

¹² Karen Branch-Brioso, "'Nonpartisan' Board Has Failed To Tame Debates," *St. Louis Post-Dispatch*, 17 September 2000.

¹³ Newton Minow and Lee Mitchell, "Formalize Debates," *New York Times*, 30 May 1984.

CPD director Alan Simpson said, "You have a lot of thoughtful Democrats and Republicans on the commission that are interested in the American people finding out more about the two major candidates -- not about independent candidates, who mess things up."¹⁴ When asked if third-party or independent candidates should be included in the presidential debates, Simpson said, "No....I think it's obvious that independent candidates mess things up."¹⁵ Congressman John Lewis (D-GA), a former CPD director, stated:

There's no question that having the two major parties in absolute control of the presidential debate process, and there's no question that they do, strengthens the two-party system. These are the most important events of an election, and if no other candidates are getting in the debates, the American people are just not going to hear about them, which means the two parties basically have a monopoly.¹⁶

After working with the CPD for two consecutive election cycles, Mickey Kantor, who chaired former President Clinton's 1992 and 1996 presidential campaigns, concluded, "The CPD is basically opposed to the inclusion of third-party candidates."¹⁷

As all of the above clearly demonstrates, the CPD is not "nonpartisan" but rather "bipartisan." The *Boston Globe* described the CPD as "a Washington-based bipartisan body established in 1988 by the national Democratic and Republican parties."¹⁸ Barbara Vucanovich, a former CPD director, praised Executive Director Janet Brown for being "extremely careful to be bipartisan."¹⁹ David Norcross, former vice-chairman of the CPD, admitted, "It's really not nonpartisan. It's bipartisan."²⁰

The CPD's sponsorship of the debates is not a nonpartisan voter education effort. It is, by the CPD's own admissions, a bipartisan voter education effort -- an effort to inform the public about the views of the Republican and Democratic candidates, and consequently, to influence voters to choose one of those two candidates to the detriment of independent and third-party candidates, in violation of 11 C.F.R. §110.13(a).

The CPD, however, does not merely "support" the major parties and their respective candidates and "oppose" third-party and independent candidacies. The CPD secretly awards control of the presidential debates to the Republican and Democratic nominees, in violation of 11 C.F.R. §110.13, and often at the expense of third-party candidacies and voter education.

Every four years, to comply with Federal Election Commission regulations, the CPD publishes candidate selection criteria. Questions concerning third-party participation, however, are ultimately resolved behind closed doors, by negotiators for the Republican

¹⁴ Alan Simpson, interview with George Farah, 18 March 2002.

¹⁵ Ibid.

¹⁶ Congressman John Lewis, interview with George Farah, 17 September 2002.

¹⁷ Mickey Kantor, interview with George Farah, 16 September 2001.

¹⁸ Chris Black, "Candidates May Meet at Kennedy Library," *Boston Globe*, 3 December 1991.

¹⁹ Barbara Vucanovich, interview with George Farah, 23 July 2001.

²⁰ David Norcross, interview with George Farah, 26 March 2001.

and Democratic candidates. These negotiators draft secret debate contracts called "Memoranda of Understanding" that dictate precisely how the debates will be run -- from decreeing who can participate, to prohibiting candidate-to-candidate questioning, to stipulating the height of the podiums. (See Exhibits B and C) Posing as an independent sponsor, the CPD implements the directives of the "Memoranda of Understanding."

The "Memoranda of Understanding" stipulate precisely which candidates will participate in the presidential debates, and the CPD invites those candidates to the debates and excludes all other candidates. "The commission does what you tell them to do," said Scott Reed, chairman of Bob Dole's 1996 presidential campaign.²¹ Frank Donatelli, debate negotiator for Bob Dole, summarized the process: "The Commission throws the party, the commission gets the food, hires the band, but as to who shows up, what the time is and what the dress is, those are the candidates' decisions."²² Professor Larry Sabato of the University of Virginia said, "The Commission is a setup for the two-party system. Its decision is being presented as if it were made by a group of Olympian gods. But this is a group of hard-bitten pols who play at the highest levels and have very clear motives."²³

Since 1992, "Memoranda of Understanding" have been remarkably similar, all addressing in like fashion: candidate participation, format, staging details, podiums, audience placement, selection of moderators and panelists, dressing rooms, press seating, restrictions on camera shots, distribution of tickets, time limits on responses, opening and closing statements, role of the moderator, press passes, and even coin tosses. Each "Memorandum of Understanding" begins with a statement such as:

This memorandum of understanding constitutes an agreement between the Bush/Quayle '92 and Clinton/Gore '92 Committees regarding the rules that will govern any Presidential and Vice Presidential debates in 1992 ("debates"). This agreement shall be binding upon the Bush/Quayle and Clinton/Gore campaigns, as well as the campaign of any other candidate who participates in such debates and, if it agrees to sponsor the debates, on The Commission on Presidential Debates ("Commission"). (See also Exhibit C)

Each "Memorandum of Understanding" includes the following absolute condition: "The debate will be sponsored by the Commission, provided that the Commission agrees to all provisions of this Agreement." (See Exhibits B and C)

The CPD approach--accepting unilaterally imposed and secret instructions from the major-party campaigns--drastically differs from the practices of previous sponsors. Marty Plissner, former political director of CBS News, testified before Congress in 1993:

The networks in 1960 engaged in extensive negotiations with the

²¹ Scott Reed, interview with George Farah, 2 April 2001.

²² Frank Donatelli, interview with George Farah, 12 October 2001.

²³ Michael Rezendes, "Debate Panel Widely Faulted for Asking Perot's Exclusion," *Boston Globe*, 19 September 1996.

candidates before the Nixon-Kennedy debates were put on and the networks were major participants. This was not put together between Nixon and Kennedy in the back room. The League of Women Voters in the days when it was sponsoring debates hand-wrestled very aggressively with the candidates and had real input. The *sine qua non* of the candidates getting together and producing by dictate the 36-page document deciding every element of the campaign is an innovation in the past two cycles.²⁴

Since 1988, the Republican and Democratic candidates have drafted instructions concerning the general election presidential debates for the CPD in the form of "Memoranda of Understanding." The CPD implements these shared demands of the major party candidates. In doing so, the CPD demonstrates clear "support" for the Republican and Democratic candidates, and clearly "oppose[s]" third-parties and third-party and independent candidates, in violation of 11 C.F.R §110.13(a).

2. The CPD does not employ "pre-established objective" criteria.

The CPD does not "use pre-established objective criteria to determine which candidates may participate in a debate," as required by 11 C.F.R §110.13(c). The Republican and Democratic candidates are automatically invited to the presidential debates, and they secretly determine whether or not any third-party or independent candidates will join them. The major party candidates draft "Memoranda of Understanding," which explicitly state which candidates will be participating in the presidential debates. The "Memoranda of Understanding" are handed to CPD, which implements the dictates of these secret debate contracts. The CPD conceals the "Memoranda of Understanding" from the public.

To ostensibly comply with FEC debate regulations, the CPD established a candidate selection process in 1988 that was allegedly used again in 1992 and 1996. But even the candidate selection criteria established by the CPD to conceal major party manipulation and to seemingly comply with FEC regulations were not "pre-established" or "objective."

The 1988, 1992 and 1996 candidate selection processes automatically invited the major party candidates to participate in the presidential debates. The introduction to the 1996 candidate selection criteria states:

A Democratic or Republican nominee has been elected to the Presidency for more than a century. Such historical prominence and sustained voter interest warrants the extension of an invitation to the respective nominees of the two major parties to participate in [CPD's] 1996 debates. (See Exhibit D)

²⁴House Committee on House Administration, *Presidential Debates: Hearing Before the Subcommittee on Elections of the House Committee on House Administration*, 128.

Such automatic invitations to the nominees of the Republican and Democratic parties based solely on their nominations by the respective parties are in direct violation of 11 C.F.R. §110.13(c).

To determine which, if any, third-party and independent candidates would also be invited to the debates, the CPD created an Advisory Committee. The Advisory Committee was charged with deciding which third-party candidates had a "realistic chance of being elected," and the Advisory Committee used candidate selection criteria to determine whether a candidate had a "realistic chance of victory." The introduction to the 1996 candidate selection criteria states:

In order to further the education purposes of its debates, [CPD] has developed nonpartisan criteria upon which it will base its decisions regarding selection of nonmajor party candidates to participate in its 1996 debates. (See Exhibit D)

The criteria did not consist of "pre-established objective" indicators, such as ballot access or poll results. Rather, the criteria were subjective, relying, for example, on "the professional opinions of the Washington bureau chiefs of major newspapers, news magazines, and broadcast networks." (See Exhibit D) Dr. Diana Carlin, a member of the Advisory Committee, testified, "It would have been very easy to apply objective criteria. The subjective criteria, however, puts one in a position of being similar to a Supreme Court Justice and interpreting some things, and that is what I felt like during that process."²⁵ Mickey Kantor, former President Clinton's campaign chairman, said, "You should only use objective criteria, of course, which the commission didn't do. They used subjective criteria."²⁶ Even Professor Neustadt, chair of the Advisory Committee, admitted that a "realistic chance of election" is a "a standard for the future, and to that extent it is by nature subjective."²⁷ The subjectivity of the criteria enabled the CPD to rhetorically justify the exclusion of any candidate. Such criteria also violate 11 C.F.R. §110.13(a).

The CPD selected individuals to serve on the Advisory Committee who were committed to a two-party system. Vernon Jordan, who later became President Clinton's senior advisor, was one of the three founding Advisory Committee members. Moreover, the conclusions of the Advisory Committee were not binding. The directors of the CPD could and did reject the Advisory Committee's recommendations. This ensured that the candidate selection criteria would ultimately produce an outcome that was not at odds with the demands of the major party candidates, which were outlined in the secret "Memoranda of Understanding."

As demonstrated below, in 1988, 1992 and 1996, the major party candidates secretly determined the participants in the presidential debates during debate negotiations. The

²⁵House Committee on House Administration, *Presidential Debates: Hearing Before the Subcommittee on Elections of the House Committee on House Administration*, 150.

²⁶ "Debate Negotiator Detail Their Format Proposals," CNN, 18 September 1996.

²⁷ David Broder, *Campaign for President: The Managers Look at '96*, (Hollis, NH: Hollis Publishing Company, 1997), 165.

instructions concerning candidate participation were incorporated in privately negotiated "Memoranda of Understanding," which the CPD implemented. The CPD convened the Advisory Committee, the members of which ardently believed in a two-party system and were -- on at least one occasion -- aware of the major party candidates' demands, to interpret subjective criteria that could justify, precisely due to its subjectivity, the exclusion or inclusion of third-party and independent candidates. If the Advisory Committee happened to produce conclusions contrary to the shared demands of the major party candidates outlined in the "Memoranda of Understanding," the CPD would reject the Advisory Committee's recommendations. (The CPD rejected the Advisory Committee recommendations in 1992.²⁸) This process -- used by the CPD in 1988, 1992, and 1996 -- does not satisfy the requirements of 11 C.F.R. §110.13(a), which require the candidate selection process to be governed by "pre-established objective criteria."

In 2000, the CPD changed its candidate selection process as a result of the public outcry following Ross Perot's exclusion. The majority of eligible voters supported Perot's inclusion in the 1996 presidential debates, and his exclusion unmasked the CPD's bipartisan nature. To neutralize accusations of partisanship while still ensuring third-party exclusion, on January 6, 2000, the CPD announced that third-party and independent candidates would have to reach 15 percent in pre-debate polls to receive an invitation to the presidential debates. The CPD has announced that the 15 percent criterion would be used to determine the participants of the 2004 general election presidential debates.

The advantage of the 2000 criterion is that it forces some transparency; a 15 percent threshold is seemingly more objective. However, exclusion had merely been shifted from behind-the-scenes negotiation to an overt numerical obstacle. The *Bismarck Tribune* called the 15 percent threshold a "third-party killer."²⁹

Structural barriers make it virtually impossible for an outsider to break 15 percent of the two-party grip over voting populations. A 15 percent criterion applied to all the presidential debates of the twentieth century would have excluded every third party candidate except for Congressman John Anderson, who participated in televised Republican primary debates. A five percent criterion applied to all previous presidential debates would have excluded every third-party candidate, except for John Anderson and Ross Perot. In fact, so formidable are the barriers to third party voices, a two percent criterion applied to all previous presidential debates would have included only three third-party candidates: John Anderson in 1980, Ross Perot in 1992 and 1996, and Ralph Nader in 2000.

The CPD could have defensibly chosen a five percent threshold. Under the Federal Election Campaign Act, a party that receives five percent of the popular vote qualifies for federal matching funds for the next election. Setting the criteria at 15 percent in pre-debate polls therefore raises the following questions: How is it that taxpayers can finance a candidate's campaign, and yet not be able to see or hear him? Why should a standard developed by former party functionaries exceed a standard codified by elected officials?

²⁸ David Broder, *Campaign For President: The Managers Look at '96* (Hollis, NH: Hollis Publishing Company, 1997), 165.

²⁹ "Serving the two parties instead of the public," *Bismarck Tribune*, 13 January 2000.

The CPD could also defensibly have selected criteria based on polling which asks the American people who they would like to see participate in the presidential debates; such criteria are inherently democratic. In 2000, only two third-party candidates – Green Party nominee Ralph Nader and Reform Party nominee Pat Buchanan -- could show that a majority of eligible voters desired their inclusion in the general election presidential debates.³⁰

The CPD's decision to select 15 percent as the level of support necessary to participate in the debates is solely the "subjective" (and clearly biased) judgment of the CPD concerning the level of "support" that it considers appropriate. The CPD has not provided any explanation for its choice, which is three times the level selected by Congress for federal funding of political parties.

More important than the subjective underpinnings of the 15 percent threshold is its calculated effect. The 15 percent criterion performs the same function as the previous subjective criteria. It allows the CPD to unilaterally provide a forum that is designed to exclude third-party and independent candidates. Only if the Republican and Democratic campaigns desire the inclusion of a particular third-party candidate, and permit the inclusion of that third-party candidate in a "Memorandum of Understanding," will a third-party candidate be included in presidential debates staged by the CPD. The 15 percent criterion, therefore, is not "pre-established objective," but rather relevant only to the degree it reinforces the joint wishes of the Republican and Democratic candidates. Consequently, the 15 percent threshold, as implemented by the CPD, violates 11 C.F.R. §110.13(a).

3. The CPD's criteria were not "used to pick the participants" and the CPD's criteria were "designed to result in the selection of certain pre-chosen participants."

The major party candidates – not the Advisory Committee or 15 percent threshold – determined who would and would not participate in CPD-sponsored general election presidential debates. The major party candidates provide explicit instructions concerning candidate participation to the CPD in the form of "Memoranda of Understanding." The "Memoranda of Understanding" – not the CPD's criteria – were "used to pick the participants," and the CPD's criteria were therefore "designed to result in the selection of certain pre-chosen participants" that were chosen by the major party candidates, in direct violation of 11 C.F.R. §110.13(c).

The following descriptions of the events that transpired in the last three election cycles, in conjunction with the Exhibits attached, illustrate how the major party candidates determined the participants in general election presidential debates staged by the CPD, in violation of 11 C.F.R. §110.13(c):

³⁰ <http://www.fair.org/activism/network-debates.html>

A. 1992

On May 17, a CNN/*Time* poll put independent president candidate Ross Perot ahead of Governor Bill Clinton and President George H. W. Bush. On July 16, however, Perot quit the race for the presidency.

On September 9, with Perot out of the race, the Advisory Committee convened and unanimously concluded that no third-party or independent candidate had a "realistic chance of victory."³¹

On October 1, Ross Perot announced that he was reentering the race. The Bush campaign was pleased with Perot's return. Bush's advisors no longer believed that their candidate could win a plurality of votes, and they wanted Perot in the presidential debates to tip the election in their favor. When Perot had quit the race, Clinton had shot up fourteen points in the polls, whereas Bush had only climbed three points.³² If Perot was allowed to debate, the Bush campaign reasoned, he could diminish Clinton's support. Bobby Burchfield, debate negotiator for the Bush campaign, explained what happened next in testimony before Congress: "We, the Bush campaign, made it a precondition for the debates that Mr. Perot and Admiral Stockdale be included in the debates. The Bush campaign insisted and the Clinton campaign agreed, that Mr. Perot and Admiral Stockdale be invited to participate in the debates."³³

On October 4, Perot received a take-it-or-leave-it invitation from the major-party candidates to participate in the presidential debates. That same day, the major-party negotiators submitted a detailed thirty-seven-page "Memorandum of Understanding" to the CPD, which stated: "The parties agree that Mr. Perot and Adm. Stockdale shall be included in the debates if Mr. Perot accepts the terms of this agreement." (See Exhibit B) The Memorandum of Understanding also stipulated:

The debates will be sponsored by the Commission, provided that the Commission agrees to all provisions of this agreement. In the event that the Commission does not accept the provisions of this Agreement or is unable to fulfill the provisions of this Agreement, representatives of the two (2) candidates who are signatories to the Agreement will immediately use their best efforts to obtain a mutually agreeable alternate sponsor or sponsors for the debates on the dates set forth and only on the same terms and conditions agreed upon herein. (See Exhibit B)

On October 5, 1992, at the request of the CPD, the Advisory Committee reconvened. The Advisory Committee recommended that Perot be included in the first debate, but that his inclusion in the second and third debates be subject to further review after that first

³¹ *Federal Election Commission First General Counsel's Report Regarding MUR 4451, 4473*, 6 February 1998.

³² House Committee on House Administration, *Presidential Debates: Hearing Before the Subcommittee on Elections of the House Committee on House Administration*, 50-51.

³³ House Committee on House Administration, *Presidential Debates: Hearing Before the Subcommittee on Elections of the House Committee on House Administration*, 50-51.

debate. "We knew that if we decided not to recommend Perot's inclusion, the two campaigns were likely to seek another sponsor that would," wrote Professor Diana Carlin.³⁴ The CPD adopted the Advisory Committee's recommendation and, initially rejected the major-party candidates' request that Perot be included in *all three* debates at the outset.

The Bush and Clinton campaigns rejected the CPD's proposal, and accordingly, the CPD acquiesced. "The commission did not accept our recommendation," said Professor Neustadt, chair of the Advisory Committee.³⁵

Perot participated in all of the 1992 presidential debates only because President Bush wanted him there, and President Clinton agreed. "If not for the candidate's agreement that Perot be included in 1992, he wouldn't have been included," said Bobby Burchfield.³⁶

B. 1996

In 1996, Ross Perot ran for president again as the nominee of the Reform Party, and seventy-six percent of eligible voters wanted him included in the general election presidential debates.³⁷ However, on September 17, 1996, the Advisory Committee unanimously recommended inviting only Senator Bob Dole and President Bill Clinton to the presidential debates, and the CPD unanimously approved the Advisory Committee's recommendation.

The CPD's ruling did not terminate discussion about Perot. During ensuing debate negotiations, Clinton proposed that Perot be included in the first debate.³⁸

Dole wanted Perot excluded. Scott Reed, Dole's campaign manager, said, "We went into the debate process with a very specific strategy: We didn't want Perot in the debates. Nothing else really mattered."³⁹ Consequently, Dole awarded Clinton the right to dictate the schedule and format of the debates as long as Clinton agreed to exclude Perot entirely. George Stephanopolous, senior advisor to President Clinton, explained, "[The Dole campaign] didn't have leverage going into negotiations. They were behind. They needed to make sure Perot wasn't in. As long as we would agree to Perot not being in it, we could get everything else we wanted going in. We got our time frame, we got our length, we got our moderator."⁴⁰

³⁴ Diana Carlin, "Constructing the 1996 Debates: Determining the Setting, Formats, and Participants," in *Presidential Debates: 1988 and Beyond*, 142.

³⁵ David Broder, *Campaign For President: The Managers Look at '96* (Hollis, NH: Hollis Publishing Company, 1997), 165.

³⁶ Bobby Burchfield, interview with George Farah, 5 April 2001.

³⁷ Jamin B. Raskin, "Silencing the Other Parties," *The Washington Post*, 30 October 1996.

³⁸ Mickey Kantor, interview with George Farah, 16 September 2001.

³⁹ Scott Reed, interview with George Farah, 2 April 2001.

⁴⁰ David Broder, *Campaign For President: The Managers Look at '96*, 170.

The major-party candidates submitted a secret "Memorandum of Understanding" to the CPD, which stipulated, "The participants in the two Presidential debates will be Bill Clinton and Bob Dole." The "Memorandum of Understanding" also stipulated:

The debates will be sponsored by the Commission, provided that the Commission agrees to all provisions of this agreement. In the event that the Commission does not accept the provisions of this Agreement or is unable to fulfill the provisions of this Agreement, representatives of the two (2) candidates who are signatories to the Agreement will immediately use their best efforts to obtain a mutually agreeable alternate sponsor or sponsors for the debates on the dates set forth and only on the same terms and conditions agreed upon herein. (See Exhibit C)

The "Memorandum of Understanding" was signed by Mickey Kantor and Scott Reed, chairs of the Clinton and Dole campaigns respectively. (See Exhibit C)

Defending Perot's exclusion to voters proved difficult for the CPD. The Advisory Committee listed only three reasons for Perot's exclusion: (1) Perot's 1996 poll numbers were lower than his 1992 poll numbers, (2) none of the academics or journalists consulted found Perot to have a realistic chance of election, and (3) Perot could not spend his personal fortune because he had accepted federal matching funds. (Perot received \$29 million in federal matching funds for his 1996 campaign because he had captured 18.91 percent of the popular vote in 1992.⁴¹)

The Advisory Committee misled the public. Although Perot garnered more excitement in 1992, partly due to his novelty, he was polling at virtually the same level before the 1996 debates as he had in 1992.⁴²

Moreover, the Advisory Committee didn't even implement the criteria; the Advisory Committee never interviewed the Washington bureau chiefs of the *New York Times*, the *Wall Street Journal*, the *Los Angeles Times*, the *Chicago Tribune*, *Time*, *Newsweek*, the *Atlanta Constitution*, NBC, CNN, or ABC.⁴³

⁴¹ <http://uselectionatlas.org/USPRESIDENT/>

⁴² In 1992, from the time Perot reentered the race to the day the Advisory Committee made its decision, national polls showed that Perot's support ranged from 7 to 9 percent, with an average of 8 percent. (A *USA Today*/CNN poll put Perot at 8 percent on October 4. An ABC News/*Washington Post* poll put Perot at 8 percent on October 5. A CBS News/*New York Times* poll put Perot at 7 percent on October 5. A Harris Poll put Perot's support at 9 percent on October 5. NBC/*Wall Street Journal* and the *Los Angeles Times* did not publish polls that asked who the polltaker would vote for during that time period.) In 1996, for the week preceding the Advisory Committee's decision, Perot's support ranged from 6 to 10 percent, with an average of 7.7 percent, just three-tenths of a percent lower than in 1992. (The *Los Angeles Times* put Perot at 10 percent on September 10. A Harris poll put Perot's support at 7 percent on September 10. ABC News/*Washington Post* measured Perot's support at 7 percent on September 15. *USA Today*/CNN, which conducted polls almost daily, put Perot at 7 percent on September 13, 7 percent on September 14, 8 percent on September 15, 6 percent on September 16, and 6 percent on September 17. CBS/*New York Times* and NBC/*Wall Street Journal* did not publish polls that asked who the polltaker would vote for during that time period.)

⁴³ Neil Leis, "How Debates Panel Decided to Exclude Perot," *New York Times*, 19 September 1996.

And the decision to exclude Perot in 1996 partly because he accepted federal matching funds contradicted the Advisory Committee's own criteria, which listed "eligibility for matching funds from the Federal Election Commission" as a positive factor in determining viability. (See Exhibit D) "If you go by the criteria, you can make an argument that he should be in," admitted George Stephanopolous.⁴⁴

C. 2000

In 2000, five third-party candidates were on enough state ballots to win an Electoral College majority. Two of these candidates--Ralph Nader and Pat Buchanan--are well-known public figures who attracted substantial media coverage and popular support, and, according to a Fox News poll, 64 percent of likely voters wanted them in the debates. However, Nader and Buchanan failed to reach 15 percent in pre-debate polls, and Al Gore and George W. Bush did not want either third-party candidate included. William Daley, Gore's campaign chairman, wrote, "Nader and Buchanan checked each other in their own way and no one really wanted either in the debates."⁴⁵ The 2000 "Memoranda of Understanding" stipulated that the participants in the presidential debates would be Al Gore and George W. Bush, and the CPD sponsored three general election presidential debates that only included Al Gore and George W. Bush.⁴⁶

Conclusion

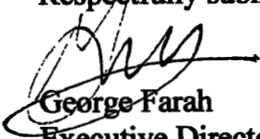
The Complainant requests that the FEC find that the CPD violates both the Federal Election Campaign Act of 1971 and the FEC's implementing regulations because the CPD fails to stage its corporate-sponsored presidential debates in accordance with the requirements of 11 C.F.R. §110.13. The Commission on Presidential Debates does "endorse, support, or oppose political candidates or political parties;" does not "use pre-established objective criteria to determine which candidates may participate in a debate;" and its criteria were "designed to result in the selection of certain pre-chosen participants." Consequently, the CPD's staging of general election presidential debates does not fall within the "safe harbor" provision of 2 U.S.C. § 431b(9)(B)(ii), and the debates staged by the CPD were and are illegal corporate contributions to the participating candidates.

⁴⁴ George Stephanopolous, interview with George Farah, 20 March 2001.

⁴⁵ E-mail from William Daley to George Farah, 7 August 2001.

⁴⁶ Anonymous interview with George Farah, 2002.

Respectfully submitted,



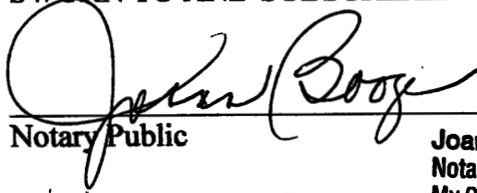
George Farah
Executive Director
Open Debates

Attachments

District of
Columbia

)
)
)
)

SWORN TO AND SUBSCRIBED before me on this 19th day of February, 2004.



Notary Public

Joann Booze
Notary Public, District of Columbia
My Commission Expires 06-30-2007

My Commission Expires: _____

25 "04" 409 "4263

Table of Exhibits

Exhibit A: Press release from the Republican and Democratic National Committees announcing incorporation of CPD

Exhibit B: 1992 Memorandum of Understanding

Exhibit C: 1996 Memorandum of Understanding

Exhibit D: The CPD's candidate selection criteria for the 1988, 1992 and 1996 general election presidential debates

ES-04-409-4263

**Exhibit A: Press release from the Republican and Democratic National Committees
announcing incorporation of CPD**

News from the
DEMOCRATIC AND REPUBLICAN NATIONAL COMMITTEES

Release. Wednesday, February 18, 1987

Contact Robert P. Schmermund, RNC
202/863-8550

Terry Michael, DNC
202/863-8020

**RNC AND DNC ESTABLISH
COMMISSION ON PRESIDENTIAL DEBATES**

Washington, D C -- Republican National Committee Chairman Frank J. Fahrenkopf, Jr. and Democratic National Committee Chairman Paul G. Kirk, Jr. announced the creation of the Commission on Presidential Debates at a joint press conference today at the Capitol.

The 10-member commission is a bipartisan, non-profit, tax exempt organization formed to implement joint sponsorship of general election presidential and vice presidential debates, starting in 1988, by the national Republican and Democratic committees between their respective nominees.

In launching this new initiative, the two party chairmen said, "A major responsibility of both the Democratic and Republican parties is to inform the electorate on their philosophies and policies as well as those of their respective candidates. One of the most effective ways of accomplishing this is through debates between their nominees. By jointly sponsoring these debates, we will better fulfill our party responsibilities to inform and educate the electorate, strengthen the role of political parties in the electoral process and, most important of all, we can institutionalize the debates, making them an integral and permanent part of the presidential debate process."

In emphasizing the bipartisan nature of the commission, both chairmen noted the contributions to the debate process by the League of Women Voters. "We applaud the League for laying a foundation from which we can assume our own responsibilities. While the two party committees will be sponsors for all future presidential general election debates between our party nominees, we would expect and encourage the League's participation in sponsoring other debates, particularly in the presidential primary process."

Kirk and Fahrenkopf, in stressing the need to institutionalize the debates, said it will be the Commission's goal to recommend the number of presidential and vice presidential debates, as well as the dates and locations of these debates, before the 1988 nominating conventions. Potential candidates for the parties' respective nominations have committed to support party-sponsored debates. The Commission's recommendations will be forwarded to all potential candidates for concurrence as soon as they are completed.

"This degree of certainty about the debates going into the general election," the chairmen said, "is an historic breakthrough in institutionalizing them. It means that we won't spend most of the general election campaign debating about debates, as we have too often in the past. The American people have an expectation that debates will occur every four years, this process is designed to assure that that expectation will be realized."

Fahrenkopf and Kirk will serve as co-chairs of the new Commission. They appointed as vice-chairs

- Richard Moe, Washington lawyer and partner in the firm of Davis, Polk & Wardell,
- David Norcross, Washington lawyer and partner in the firm of Myers, Matteo, Rabil, Pluese & Norcross

Others named on the Commission are.

- U S Rep. Barbara Vucanovich (R-NV),
- former U.S. Senator John Culver (D-IA), now a partner in the Washington law firm of Arent, Fox, Kintner, Plotkin & Kahn,
- Republican Gov Kay Orr of Nebraska,
- Vernon Jordan, a Democrat, former president of the Urban League, now a partner in the firm of Akin, Gump, Strauss, Hauer & Feld;
- Pamela Harriman, chairman of Democrats for the '80's,
- U S Senator Pete Wilson (R-CA)

The two chairmen said the Commission will hire staff and open a Washington office shortly. They said articles of incorporation for the Commission have been filed in the District of Columbia as well as an application for tax exemption with the Internal Revenue Service.

Kirk and Fahrenkopf concluded by saying, "We have no doubt that with the help of the Commission we can forge a permanent framework on which all future presidential debates between the nominees of the two political parties will be based. It is our responsibility as Party chairmen to have an informative and fair presidential debate process. The establishment of the Commission on Presidential Debates will go a long way toward achieving that goal."

Today's announcement stems from a recommendation of the Commission on National Elections, which during 1985 studied the presidential election system. On Nov. 26, 1985, Kirk and Fahrenkopf signed a joint memorandum agreeing in principle to pursue the party sponsorship concept.

2025-10-27

EXHIBIT B

News from the
DEMOCRATIC AND REPUBLICAN NATIONAL COMMITTEES

Release Wednesday, February 18, 1987

Contact Robert P. Schnermund RNC
202/863-8550

Terry Michael, DMC
202/863-8020

RNC AND DMC ESTABLISH
COMMISSION ON PRESIDENTIAL DEBATES

WASHINGTON, D.C. --Republican National Committee Chairman Frank J. Fahrenkopf, Jr. and Democratic National Committee Chairman Paul G. Kirk, Jr. announced the creation of the Commission on Presidential Debates at a joint press conference today at the Capitol.

The 10-member commission is a bipartisan, non-profit, tax exempt organization formed to implement joint sponsorship of general election presidential and vice presidential debates, starting in 1988, by the national Republican and Democratic committees between their respective nominees.

In launching this new initiative, the two party chairmen said, "A major responsibility of both the Democratic and Republican parties is to inform the American electorate on their philosophies and policies as well as those of their respective candidates. One of the most effective ways of accomplishing this is through debates between their nominees. By jointly sponsoring these debates, we will better fulfill our party responsibilities to inform and educate the electorate, strengthen the role of political parties in the electoral process and, most important of all, we can institutionalize the debates, making them an integral and permanent part of the presidential process."

In emphasizing the bipartisan nature of the commission, both chairmen noted the contributions to the debate process by the League of Women Voters. "We applaud the League for laying a foundation from which we can assume our own responsibilities. While the two party committees will be sponsors for all future presidential general election debates between our party nominees, we won't expect and encourage the League's participation in sponsoring other debates, particularly in the presidential primary process."

Kirk and Fahrenkopf, in stressing the need to institutionalize the debates, said it will be the Commission's goal to recommend the number of presidential and vice presidential debates, as well as the dates and locations of these debates, before the 1988 nominating conventions. Potential candidates for the parties' respective nominations have committed to support party-sponsored debates. The Commission's recommendations will be forwarded to all potential candidates for concurrence as soon as they are completed.

more

END

"This degree of certainty about the debates going into the general election," the chairmen said, "is an historic breakthrough in institutionalizing them. It means that we won't spend most of the general election campaign debating about debates, as we have too often in the past. The American people have an expectation that debates will occur every four years, this process is designed to assure that that expectation will be realized."

Fahrenkopf and Kirk will serve as co-chairs of the new Commission. They appointed as vice chairs:

- Richard Moe, Washington lawyer and partner in the firm of Davis, Polk & Wardwell.
- David Norcross, Washington lawyer and partner in the firm of Myers, Matteo, Rabill, Pluses & Norcross.

Others named to the Commission are:

- U.S. Rep. Barbara Vucanovich (R-NV);
- former U.S. Senator John Culver (D-IA), now a partner in the Washington law firm of Arant, Fox, Kintner, Plotkin & Kahn;
- Republican Gov. Kay Orr of Nebraska;
- Vernon Jordan, a Democrat, former president of the Urban League, now a partner in the law firm of Akin, Gump, Strauss, Mauer & Feld;
- Pamela Harriman, chairman of Democrats for the '80's;
- U.S. Senator Pete Wilson (R-CA).

The two chairmen said the Commission will hire staff and open a Washington office shortly. They said articles of incorporation for the Commission have been filed in the District of Columbia as well as an application for tax exemption with the Internal Revenue Service.

Kirk and Fahrenkopf concluded by saying, "We have no doubt that with the help of the Commission we can forge a permanent framework in which all future presidential debates between the nominees of the two political parties will be based. It is our responsibility as Party chairmen to have an informative and fair presidential process. The establishment of the Commission on Presidential Debates will go a long way toward achieving that goal."

Today's announcement stems from a recommendation of the Commission on National Elections, which during 1985 studied the presidential election system. On Nov. 26, 1985, Kirk and Fahrenkopf signed a joint memorandum agreeing in principle to pursue the party sponsorship concept.

MEMORANDUM OF UNDERSTANDING

This memorandum of understanding constitutes an agreement between the Bush/Quayle '92 and Clinton/Gore '92 Committees regarding the rules that will govern any Presidential and Vice Presidential debates in 1992 ("debates"). This agreement shall be binding upon the Bush/Quayle and Clinton/Gore campaigns, as well as the campaign of any other candidate who participates in such debates and, if it agrees to sponsor the debates, on The Commission On Presidential Debates ("Commission").

1. Number

There will be three (3) Presidential debates and one (1) Vice Presidential debate before live audiences. The parties agree that they will not issue any challenge for additional debates.

2. Dates

The parties agree that the Presidential debates will be held on Sunday, October 11, 1992; Thursday, October 15, 1992; and Monday, October 19, 1992.

The parties agree that the Vice Presidential debate will be held on Tuesday, October 13, 1992.

3. Sponsorship

The debates will be sponsored by the Commission, provided that the Commission agrees to all provisions of this agreement. In the event the Commission does not accept the provisions of this agreement, representatives of the two (2) candidates who are signatory to this agreement will immediately use their best efforts to obtain a mutually agreeable alternate sponsor or sponsors for the debates on the dates set forth and agreed upon herein.

4. Third candidate

The guidelines proposed by the Commission and other measures of the public interest considered by the parties signatory to this agreement, indicate that H. Ross Perot and Adm. James Stockdale should be invited to participate in all the debates. Therefore, the parties agree that Mr. Perot and Adm. Stockdale shall be included in the debates if Mr. Perot accepts the terms of this agreement. An invitation shall be issued to Mr. Perot before 9:00 p.m. EDT on October 5, 1992, and he shall have until noon on October 7, 1992 EDT to accept.

5. Location

The cities of St. Louis, Missouri; Atlanta, Georgia; Richmond, Virginia; and East Lansing, Michigan will be the sites of the First Presidential debate, the Vice Presidential debate, the Second Presidential debate, and the Third Presidential debate, respectively.

6. Time

Each debate will last for a total of ninety (90) minutes, including all introductory proceedings, questions, answers, and closing statements. The First Presidential debate will begin at 7:00 P.M. Washington, D.C. time. The Vice Presidential debate will begin at 7:00 P.M. Washington, D.C. time. The Second Presidential debate will begin at 9:00 P.M. Washington, D.C. time unless there is a baseball playoff game that night, in which event the Second Presidential debate will begin at 7:00 P.M. Washington, D.C. time. The Third Presidential debate will begin at 7:00 P.M. Washington, D.C. time.

7. Format

A. General provisions: selection of moderators

- (i) Representatives of each of the campaigns signatory to this agreement will promptly submit a list of one (1) to two (2) possible moderators to the other in accordance with the dates set forth below, Washington, D.C. time.

Dates and times by when first lists of moderators are to be submitted.

First Presidential debate	noon Tuesday 6 October
Vice Presidential debate	5 p.m. Wednesday 7 October
Second Presidential debate	5 p.m. Thursday 8 October
Third Presidential debate	noon Monday 12 October

Each side will then have the opportunity to approve or delete names from the other's proposed list. In the event a party fails to select any moderator from a list of another party, the rejecting party shall immediately notify the submitting party, and the submitting party will promptly submit additional names to the rejecting party.

When each side agrees upon at least one (1) possible moderator from the other side's list, then these two (2) or more names will be submitted to the Commission which will then select one (1) of these individuals to be the moderator for the respective debate. If necessary, this process will be repeated until the agreed upon number of names are submitted to the Commission.

- (ii) This same process will be followed for the Vice Presidential debate and for the Second and Third Presidential debates.
- (iii) There will be a different moderator for each of the four (4) debates.

23-04-1993

(iv) It is agreed that neither audio nor video footage from the debates may be used publicly by any candidates or candidate's campaign.

(v) Irrespective of whether a debate runs beyond the planned ending time, each candidate will be entitled to make a closing statement not to exceed two (2) minutes in duration. The Commission will use its best efforts to ensure that the TV networks carry the entire debate even if it runs past the specified ending time.

(vi) Each candidate will determine the manner by which he prefers to be addressed by the moderator and panelists and will communicate this to the Commission.

B. Debates under the panel format The following applies to the First Presidential debate and the second portion of the Third Presidential debate with a panel format:

(i) The moderator will open and close the debate and will be responsible for strictly enforcing all time limits. The moderator will use his or her best efforts to ensure

that the questions asked of the candidates
are reasonably well-balanced in terms of
presenting a wide range of issues of major
public interest facing the United States and
the world.

The moderator will identify each topic before the questions are asked by the panelists and will use his or her best efforts to ensure that the agreed upon format is adhered to.

If mutually agreed upon by representatives of both candidates, the moderator may, if he or she chooses, ask the first question of each candidate in the First Presidential debate.

- (ii) Each candidate may make a closing statement that will not exceed two (2) minutes in duration.
- (iii) If only two (2) candidates participate, the order of closing statements for the First Presidential debate will be determined by a coin flip conducted by the Commission no later than 5:00 P.M. on Monday, October 5, 1992, in Washington, D.C. The winner of the coin flip may decide whether to go first or second in making his closing statement during

25 OCT 1992 14:25

the First Presidential debate and will so indicate to the Commission at the time of the coin flip.

The order of closing statements will be rotated in the Second and Third Presidential debates. The candidate who makes the first closing statement in the First Presidential debate will be referred to herein as "Candidate A"; the other candidate will be referred to as "Candidate B." Candidate A will give the first closing statement in the First Presidential debate, the second closing statement in the Second Presidential debate, and the first closing statement in the Third Presidential debate.

- (iv) If a third presidential candidate participates in the debates, the order of closing statements will be determined by a drawing conducted by the Commission no later than 5:00 P.M. on Wednesday, October 7, 1992 in Washington, D.C. The Commission will draw the numbers "1", "2" and "3" on behalf of the candidates in the presence of representatives of the candidates. In the First Presidential debate, the candidate drawing number "1" will

get the first choice as to whether to present his closing statement first, second or third. The candidate drawing the number "2" will get the second choice as to the two (2) remaining positions for closing statement. The candidate drawing the number "3" will get the remaining position for his closing statement. The candidate who chooses the position of first closing statement in the First Presidential debate shall be designated as Candidate A; the candidate who chooses the position of second closing statement shall be designated as Candidate B; the remaining candidate shall be designated as Candidate C. The order of closing statements will be rotated in the Second and Third Presidential debates. The rotation for closing statements, where three (3) presidential candidates participate, is set forth below where, in the First Presidential debate, Candidate A gives the first closing statement, Candidate B gives the second closing statement and Candidate C gives the third closing statement:

<u>First Debate</u>	<u>Second Debate</u>	<u>Third Debate</u>
A (first)	C (first)	B (first)

B (second)

A (second)

C (second)

C (third)

B (third)

A (third)

(v) If only two (2) candidates participate in a debate, the candidate who will make the first closing statement will receive the first question; the candidate who will make the second closing statement shall receive the second question. The question and answer sequence will be as follows:

- (a) The moderator will state the topic,
e.g., "unemployment."
- (b) A panelist will ask a question of the candidate to make the first closing statement ("Candidate A"). (NOTE: The questions asked by the panelists will not exceed fifteen (15) seconds in duration.)
- (c) Candidate A will have two (2) minutes to respond.
- (d) The candidate to make the second closing statement ("Candidate B") will have one (1) minute to rebut.
- (e) The same panelist will then ask a question on the same subject of the candidate B.

1
Candidate B will have 10 minutes to respond.

(g) Candidate A will have one (1) minute to rebut.

(h) The moderator will then state a second topic and the next panelist will ask Candidate B the first question from that topic, following the format outlined above. The order in which the candidates are asked questions will be reversed for the second round and so forth throughout the debate. Thus on all odd-numbered topics, the first question of the two (2) questions to be asked on that topic will be directed to Candidate A; and on all even-numbered topics, the first question of the two (2) questions to be asked on that topic will be directed to Candidate B.

(vi) If there is a third candidate participating in the debate, the question and answer sequence shall be as follows:

(a) The moderator will state the topic,
e.g., "unemployment."

(b) The first panelist will ask a question of the candidate to make the first closing statement for that debate ("Candidate A").

(c) Candidate A will have two (2) minutes to respond. The candidate to make the second closing statement for that debate ("Candidate B") will have one (1) minute to rebut. The candidate to make the third closing statement ("Candidate C") for that debate will have one (1) minute to rebut.

(d) The second panelist will then ask a question on the same topic of Candidate B. That candidate shall have two (2) minutes to respond. Candidate C shall have one (1) minute to rebut. Candidate A will have one (1) minute to rebut.

(e) The third panelist will then ask a question on the same topic of Candidate C. That candidate shall have two (2) minutes to respond. Candidate A shall have one (1) minute to rebut.

Candidate B shall have one (1) minute to rebut.

(f) The moderator will then state the next topic and the preceding sequence shall be followed with the next panelist asking the first question of the candidate B, then C, then A.

(g) The moderator will then state the next topic and the preceding sequence shall be followed with the next panelist asking the first question of candidate C, then A, then B. Thereafter the moderator will state the next topic and return to candidate A for the first question, etc.

(vii) There will be no direct candidate-to-candidate questioning.

(viii) Role of moderator

Except as otherwise expressly provided by this agreement, the role of the moderator in debates governed by the panel format shall be restricted to opening the program, introducing the panelists, keeping time on

SECRET
25-04-409-4225

length of answers, identifying each topic before the questions are asked, using his or her best efforts to ensure the terms of this agreement and this debate are adhered to, and closing the program.

(ix) Selection of panelists. Three (3) panelists shall be selected for each debate where panelists are to be present, as follows:

(a) Representatives of each of the signatories to this agreement shall promptly submit a list of at least six (6) and not more than ten (10) possible panelists to the other, but in any event such lists shall be submitted no later than by noon Tuesday 6 October 1992, Washington, D.C. time. Each side shall then have the opportunity to approve or delete names from the other's proposed list. If necessary, this process shall be repeated until the agreed-upon number of names is submitted to the Commission. In the event a party fails to select at least two (2) panelists from the list of the submitting party, the rejecting party shall immediately notify the

25 04 409 4286

submitting party and the rejecting party shall promptly submit additional names to the rejecting party. When each side agrees upon at least two (2) panelists from each list, these final two (2) or more names on each list shall be submitted to the Commission which shall then select one (1) from each list to be a panelist for the First Presidential debate.

- (b) To select the third panelist, the Commission shall promptly submit a list of ten (10) possible panelists to representatives of the signatories to this agreement, such list to be submitted within four (4) business hours of the submission to the Commission by the campaigns of the lists referred to in subparagraph (a) immediately above. Within eight (8) business hours thereafter, these representatives will then mutually agree up on two (2) or more possible panelists from the Commission's list. If necessary, this process shall be repeated until the agreed upon number of names are

submitted to the Commission. The Commission will then pick one (1) panelist from this list and that individual, added to the two (2) selections from the process indicated in the immediately preceding subparagraph, will constitute the three (3) panelists for the First Presidential debate. In the event the parties fail to select a moderator from a list submitted by the Commission, the parties shall immediately notify each other and the Commission, and the Commission shall promptly submit additional names to the parties.

- (c) The same process as described in subparagraphs (a) and (b) immediately above will be followed for the second half of the Third Presidential debate, but there shall be different panelists for the second half of the Third Presidential debate. The parties shall submit lists to each other of proposed panelists no later than noon Monday 12 October 1992.

d) The order of questioning the panelists will be determined by a draw supervised by the Commission which shall be held promptly following the selection of the panelists for the debates in question.

(e) All discussions, communications, lists, or other writings between the parties regarding the inclusion or exclusion of potential moderators and panelists shall remain confidential between the signatories of this agreement and their representatives.

C. Moderator only format. The following applies to the first half of the Third Presidential debate.

(i) During the first forty two (42) minutes of the Third Presidential debate on 19 October 1992, the moderator will ask questions of candidates as provided in this section 7.C. The first question shall be to the candidate who, as determined by the provisions of this agreement, will give the first closing statement in this debate. The moderator shall limit the question to not more than thirty (30) seconds. The candidate shall

limit his response to two minutes, and thereafter the other two (2) candidates shall each be permitted to comment on the question or on the candidate's answer for up to one (1) minute each. The candidate of whom the question was initially asked may then respond for up to thirty (30) seconds. The moderator may ask any reasonable follow up questions of any of the candidates.

(ii) The moderator shall then ask a question of the next candidate, who, as determined by the provisions of this agreement, will give the second closing statement for this debate, which question, answer, comments by the other two (2) candidates, response, and follow up questions by the moderator shall be conducted pursuant to section 7.C(i) of this agreement.

(iii) The moderator shall then ask the remaining candidate, if any, a question, which question, answer, comments by the other two (2) candidates, response, and follow up questions by the moderator shall be conducted pursuant to section 7.C(i) of this agreement.

25 04 403 4291

(v) Thereafter the moderator shall ask a question of the first candidate referred to in section 7.C(i) of this agreement, and shall continue with questions of other candidates in rotation until the time for this portion of the Third Presidential debate expires. No questions shall be asked of a candidate by the moderator if less than three (3) minutes remain in the first forty two (42) minutes of this debate.

- (v) The moderator will open and close the debate and shall use his or her best effort to enforce all time limits. The moderator will also ensure that the questions asked of the candidates are reasonably well-balanced in terms of reaching a wide range of issues of major public interest facing the United States and the world. In addition, the moderator will use his or her best efforts to ensure that the agreed-upon format is followed.

D. Moderator and audience participation format

- (i) The Second Presidential debate will be a moderator and an audience participation format with a single moderator and will be

governed by this section 7.D. The moderator will have significant television experience and will be selected according to the procedure described in section 7.A above.

- (ii) The moderator will have the following functions in the Second Presidential debate:
- (i) introduce the candidates and open the debate;
 - (ii) facilitate the asking of questions by members of the audience;
 - (iii) ask appropriate questions to ensure balance and continuity and follow-up questions;
 - (iv) provide appropriate opportunities for comment and rebuttal by the other candidate(s);
 - (v) use his or her best efforts to ensure that the candidates speak for approximately equal amounts of time;
 - (vi) use his or her best efforts to ensure that the questions are reasonably well-balanced in terms of addressing a wide-range of issues of major public interest facing the United States and the world;
 - (vii) generally move the discussion along and avoid excessively long statements by questioners or the candidates;
 - and (viii) exercise full authority and responsibility to select the questioners from the audience.

(iii) The moderator may move about the audience with a wireless microphone.

(iv) The audience participation debate will take place in an appropriately small facility before a live audience of approximately 250 people who shall be seated and who describe themselves as likely voters who are "uncommitted" as to their 1992 Presidential vote. These participants will be selected by an independent research firm agreed upon by the campaigns signatory to this agreement. The research firm shall have sole responsibility for selecting the demographically representative group of voters. There will be no advance submissions of questions to the candidates.

(v) The candidates will stand before the audience which shall be seated or arranged in approximately a horseshoe environment around the candidates. The precise staging arrangement will be determined by the Commission's executive producer subject to the approval of representatives of both campaigns.

(vi) Each candidate will have the opportunity to make a closing statement that will not exceed two (2) minutes in duration. The order of closing statements will be determined by the procedure set forth in section 7.B.(iii) above, if there are only two (2) candidates, or as set forth in section 7.B.(iv) above, if there are three (3) candidates.

Additionally, the provision in section 7.A.(v) above, concerning the candidates' entitlement to closing statements irrespective of whether the debate runs beyond the planned ending time shall apply to the audience participation format.

(vii) The moderator will use his or her best efforts to facilitate the allocation of questions in as equal a number as possible to the candidates.

(viii) After the debate program goes on the air, the candidates will proceed simultaneously to their positions for the audience participation from different wings of the facilities, per a verbal cue (to be determined) from the moderator.

(ix) Each candidate will have a type of wireless, hand held microphone to allow them to move about and face different directions while responding to questions from the audience. This type of microphone shall be determined by the Commission's producer in consultation with each candidate's representatives.

(x) All members of the audience shall be requested by the moderator before the debate goes on air and by the moderator after the debate goes on the air not to applaud or respond by any means other than silent observation, other than for persons selected by the moderator to ask questions of the candidates.

E. Vice Presidential debate - moderator only format

The Vice Presidential debate will be a moderator only format as follows:

(i) The moderator will open and close the debate and will use his or her best efforts to ensure that the agreed-upon format is followed and enforce all time limits (without denying to any candidate an opportunity to respond when appropriate). The moderator

also use his or her best efforts to ensure that the questions asked of the candidates are reasonably well balanced in terms of reaching a wide range of issues of major public interest facing the United States and the world.

- (ii) Each candidate will have the option to make both opening and closing statements that will not exceed two (2) minutes each in duration. Irrespective of whether or not the debate broadcast runs beyond the planned ending time, each candidate shall be entitled to make a closing statement not to exceed two (2) minutes, and the Commission will use its best efforts to ensure that the TV networks will carry the entire debate even if it runs past the otherwise specified ending time.

- (iii) The question and answer sequence will be as follows:

- (a) The moderator will indicate the topic and, within fifteen (15) seconds, pose a question to all of the candidates. The sequence of answering questions is set forth in section 7E(v) of this

agreement. Thus, for example, if three (3) candidates participate, the question for the first topic shall be answered first by candidate "B", followed by candidate "C", followed by candidate "A". The question for the second topic shall be answered first by candidate "C", followed by "A", etc. The question for the third topic shall be answered first by candidate "A", followed by "B", etc. Thereafter, the sequence will begin again with the question for the fourth topic being answered by candidate "B", followed by "C", etc.

- (b) Beginning with the candidate who first answered the moderator's question, each candidate will then be permitted to comment on the position of one or both of the other candidates and to pose a cross-question to one of the other candidates on the topic at issue. The moderator shall facilitate direct responses to such cross-comments and cross-questions, in an orderly fashion, but shall ensure that such cross-comments, questions and responses are of

reasonable length, remain on the topic at issue and offer to each candidate essentially equal time to address the topic at issue. This period of cross-questioning and cross-commenting shall not exceed a total of five (5) minutes beyond the conclusion of the answer contemplated by subparagraph "(a)" immediately above.

- (iv) The general provisions of this agreement apply to the Vice-Presidential debate, as well as the Presidential debates, including, but not limited to, the selection of the moderator and prohibiting the use of notes, other written material, props or other material during any debate. The candidates will participate in the Vice Presidential debate by standing at podia.
- (v) If only two (2) candidates participate, the positions for (a) opening statements, (b) answering the question for each topic, and (c) closing statements, shall be determined by the flip of a coin conducted by the Commission in the presence of representatives of the signatories to this agreement. The

winner of the coin flip shall choose one of the four (4) positions shown on the grid below. The other candidate shall then choose one of the two (2) positions in the other column.

<u>Opening statement and answer first question</u>	<u>closing statement</u>
A (first)	A (first)
B (second)	B (second)

If three (3) candidates participate, the positions for (a) opening statements, (b) answering the question for each topic, and (c) closing statements shall be determined by a draw conducted by the Commission in the presence of representatives of the candidates. The candidate drawing the number "1", shall be permitted to choose any one of the three (3) letters on the grid below. The candidate drawing the number "2" shall then be permitted to choose either one of the two (2) remaining letters on the grid below. The candidate drawing the number "3" shall be assigned the remaining letter on the grid.

<u>Opening statement</u>	<u>Answer question</u>	<u>Closing statement</u>
A (first)	B (first)	C (first)
B (second)	C (second)	A (second)

C (third)

A (third)

B (third)

8. Staging and production (see attached diagram)

A. If only two (2) candidates participate, after the debate program goes on the air, the candidates will proceed simultaneously onto the stage from opposite wings per a verbal cue (to be determined) from the moderator. In the event that three (3) candidates participate, the Commission and the representatives of the signatories to this agreement shall agree to a method for the candidates to enter upon the stage.

B. Other than as may be permitted by section 7.D (audience participation format) of this agreement, the candidates will stand at separate podiums for each Presidential debate as well as for the Vice Presidential debate.

C. The Commission will construct the podiums, and each shall be identical to view from the audience side. These podiums will be constructed in a style mutually agreed upon by representatives of the signatories to this agreement. Each podium shall measure forty eight (48) inches from the stage floor to the outside top of the podium facing the audience. Other requirements for these podiums will be verbally transmitted to the Commission by representatives of the candidates. There will be no writings nor markings of any kind on the fronts of the podiums. No candidate shall be permitted to use risers or any other device to create an appearance of elevated height, and no candidate shall be permitted to use chairs, stools or other seating devices during the debates.

D. The microphone for each candidate will be attached to the podium, and in no case will any microphone be physically attached to a candidate except during the Second Presidential debate when wireless hand held microphones, to be mutually agreed upon by the signatories to this agreement, may be used.

E. If only two (2) candidates participate in the Presidential or Vice Presidential debates, a coin flip will determine which candidate will be standing at the stage-right podium and which candidate will be standing at the stage-left podium. With respect to the Presidential debates, the positions will be reversed for the Second Presidential debate, if applicable, and, in that event, the positions for the Third Presidential debate will be the same as the First Presidential debate.

F. If three (3) candidates participate in the debates, the stage position of each candidate shall be determined by the draw for the first debate and will rotate for each succeeding debate as follows:

Stage left

Stage right

First Presidential Debate

C B A

Second Presidential Debate
(if applicable)

B A C

Third Presidential Debate

A C B

125-004409-4502

G. If two (2) candidates participate, their podiums will be equally canted toward the center of the stage at a degree to be determined by the Commission's producer. If three (3) candidates participate, the third podium will be centered between the other two (2) equally canted podiums. The podiums, whether two (2) or three (3) in number, shall not be more than ten (10) feet apart from each other; nor shall they be closer than eight (8) feet to each other; such distances shall be measured from the left-right center of a podium to the left-right center of the podium immediately next to it.

H. Camera placement shall be as indicated on the attached diagram unless changed by mutual agreement.

I. Except for the Second Presidential debate, for which the placement and handling of TV cameras shall be mutually agreed to by the signatories to this agreement, TV cameras shall be locked into place during all debates. They may, however, tilt or rotate as needed.

J. TV coverage shall be limited to shots of the candidates, panelists or moderator during the question and answer period of each debate. During closing statements, TV coverage will be limited to the candidate making his closing statement. Except for the Second Presidential debate, in no case shall any television shots be taken of any member of the audience (including candidates' family members) from the time the first question is asked until the conclusion of the closing statements. During the debates, the TV cameras shall be on the candidate speaking.

25 04 409 4505

K. All members of the audience shall be requested by the moderator before the debate goes on the air and by the moderator after the program goes on the air not to applaud or otherwise participate in the debate by any means other than by silent observation. The moderator shall use his or her best efforts to enforce this provision.

L. Each camera to which a candidate will direct his answers shall be outlined with a distinctively lighted color so that each candidate can clearly determine where he should direct his remarks if desiring to do so into a camera.

M. The moderator and panelists shall be seated so as to be positioned between the candidates and the cameras to which the candidates may direct their answers. (See attached diagram.)

N. The time cue given to indicate thirty (30) seconds remaining for a candidate's answer shall be an amber light that will go on when that time remains. It will be a constant light and not a blinking one. Similarly, a red light shall go on at the same location as the amber light fifteen (15) seconds before a candidate's time has expired. It will be a constant light and not a blinking one. There shall be a separate set of these lights (one (1) for each candidate), and these lights shall be large and in each candidate's direct line of sight to the camera to which he is giving his answer. The candidates shall not be required to look up, down or sideways to see these lights.

O. Each candidate shall be permitted to have a complete, private production and technical briefing and walk-through ("briefing") at the location of the debate on the day of

the debate. Each candidate shall have a maximum of one (1) hour for this briefing. Production lock-down will not occur for any candidate until that candidate has had his private production and technical briefing and walk-through.

P. There will be no filming or taping allowed during the candidates' private production and technical briefing and walk-through.

Q. All other candidates and their representatives shall vacate the debate site while another candidate has his private production and technical briefing and walk-through.

R. No press will be allowed into the auditorium where the debate will take place during the candidates' private production and technical briefings and walk-throughs.

S. Each candidate may use his own makeup person, and adequate facilities shall be provided at the debate site for make-up.

T. The candidates may take notes during the debate on the size, color and type of paper each prefers. No candidate will be permitted to take or use any notes, other written material, props or other material into the debate.

U. No candidate shall have any staff member in the wings or backstage later than five (5) minutes after the debate has begun nor sooner than five (5) minutes before the debate concludes.

V. Other than security personnel, not more than two (2) aides will accompany each candidate to the stage before the program begins.

W. There will be no TV cut-aways to any candidate who is not responding to a question while another candidate is answering a question nor to a candidate who is not giving a closing statement while another candidate is doing so.

X. The color of the backdrop will be mutually determined by the representatives of the signatories to this agreement.

Y. The set will be completed and lit no later than 3 p.m. on the day before the debate will occur.

Z. There will be no tally lights lit on any of the cameras during the broadcast of the debate.

9. Ticket distribution and seating arrangements

A. If only two (2) candidates participate, then each candidate shall directly receive one-third of the tickets for each debate with the remaining one-third going to the Commission. If three (3) candidates participate, then each candidate shall directly receive one-fourth of the tickets for each debate with the remaining one-fourth going to the Commission. Other than for tickets for audience participants, there shall be no tickets distributed in connection with the Second Presidential debate, except the Commission shall ensure that the families of the respective candidates shall be admitted to the Second Presidential debate, as well as to the other debates.

B. (i) It is the intent of the parties that where reasonably feasible, the supporters of each candidate attending the debates be

interspersed among supporters of the other candidates. The Commission shall make appropriate arrangements to achieve this goal. The family members of each candidate shall, however, be seated as described in subparagraph (ii) immediately below.

- (ii) In the event supporters of the Candidates attending the debates cannot be seated as described in subparagraph (i) immediately above then the following shall apply. If only two (2) candidates participate, each candidate's family and supporters shall be given seats on the side of the auditorium from which their candidate is speaking. Each candidate shall have the first four (4) rows of his half of the auditorium for his personal use, and succeeding rows on his half of the auditorium will be made available for supporters of that particular candidate. If three (3) candidates participate, the seats in the first six (6) rows of the auditorium shall be evenly divided in thirds among the three (3) candidates as determined by the Commission, and the families of each candidate shall be given seats as nearly as possible in front of their candidate, with

succeeding rows behind them to be made
available to his supporters.

C. Any press seated in the auditorium can only be accommodated in the two (2) rows of the auditorium farthest from the podiums. Two (2) still-photo pool stands may be positioned near either side of the TV camera stands located in the audience. (A press center with all necessary feeds will be otherwise available.)

D. Tickets will be delivered by the Commission to the chairman of each candidate's campaign or his representative by 12:00 noon on the day preceding each debate.

10. Dressing Rooms/Holding Rooms

A. Each candidate shall have a dressing room available of adequate size so as to provide private seclusion for that candidate and adequate space for the staff the candidate desires to have in this area. An equal number of other backstage rooms will be available for other staff members of each candidate. All of these rooms may be furnished as deemed necessary by the candidates' representatives. Each candidate's rooms shall be reasonably segregated from those designated for other candidates. If sufficient space is not available, the Commission shall rent a trailer of adequate size for each candidate and his staff to use. The number of individuals allowed in these rooms or trailers shall be determined by each candidate. Backstage passes (if needed) will be issued to the candidates' representatives as requested. The Commission will not restrict the issuance of

these passes. The rooms mentioned in the preceding paragraph shall be available at least seventy two (72) hours in advance of the beginning of each debate.

B. The Commission will provide each candidate with a direct television feed from the production truck to two (2) monitors placed in the candidate's dressing room and staff holding rooms as requested by the candidate's representatives. In addition, the Commission will provide four (4) additional functioning TV sets for each candidate. These sets will be located as desired by representatives of each candidate.

11. Miscellaneous

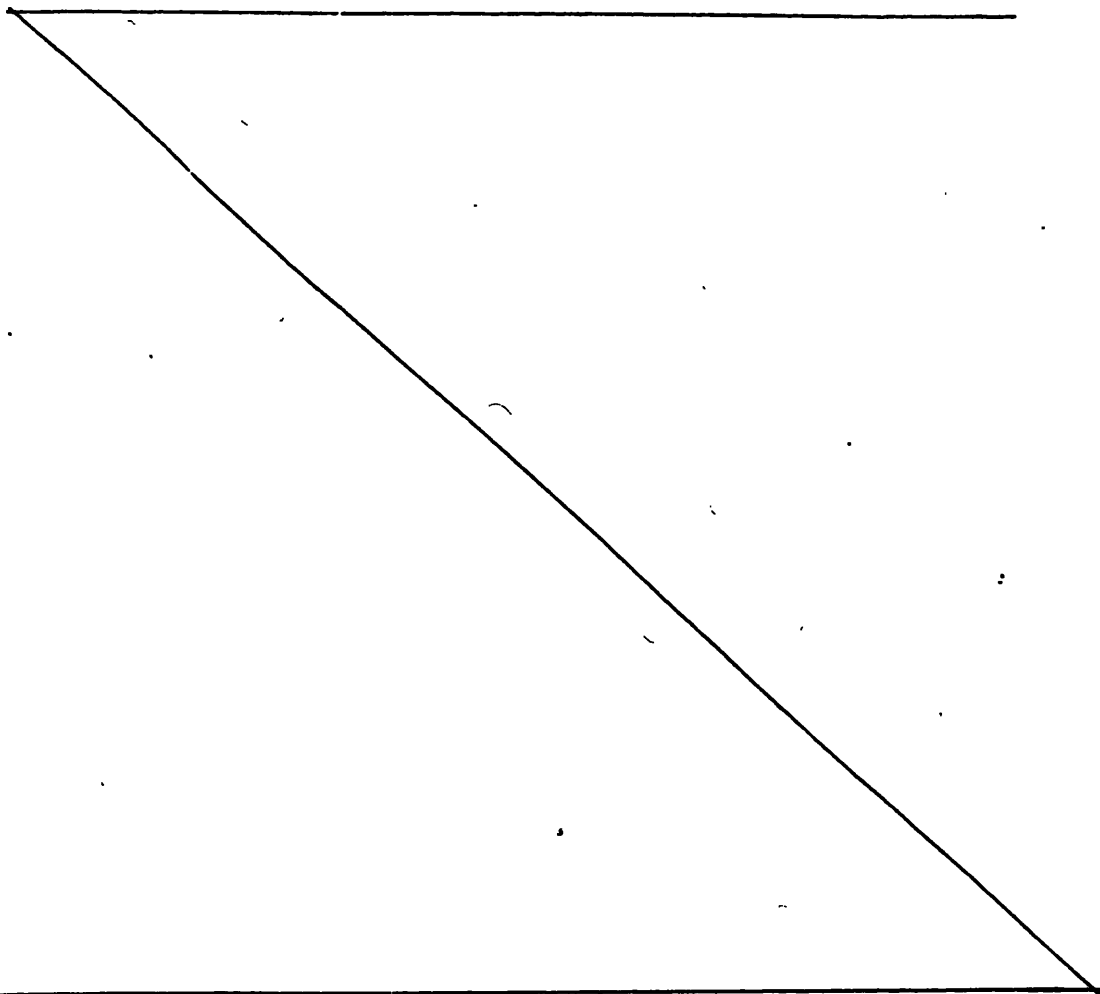
A. Each candidate shall be allowed to have one (1) still photographer present on stage before the debate begins and in the wings during the debate, as desired, and on the stage immediately upon the conclusion of the debate. Photos taken by these photographers may be distributed to the press as determined by each candidate.

B. Each candidate shall receive not less than thirty (30) press passes for The Press Center and more if mutually agreed upon by the candidates signatory to this agreement.

C. Each candidate shall be allowed to have an unlimited number of people in The Press Center upon the conclusion of the debate.

D. The Commission shall be responsible for all press credentialing.

E. The Commission will invite from their allotment (two (2) tickets each) an agreed upon list of office holders such as the U.S. Senate and House Majority and Minority Leaders, the Governor and Lieutenant Governor of the state holding the debate, that state's congressional delegation, appropriate state legislative representatives and the Mayor and City Council members, of the city holding the debate.



25.01.405.4305

12. Announcement of agreement

Unless otherwise mutually agreed to by the parties signatory to this agreement, this agreement shall not be announced publicly until signed by all parties and until a time for an announcement is mutually agreed upon.

13. Amendments

This agreement shall not be changed or amended except in writing signed by the campaigns signatory to this agreement.

CLINTON/GORE '92 COMMITTEE

BUSH/QUAYLE '92

By: _____

By: _____

Date: _____

Date: _____

MEMORANDUM OF UNDERSTANDING

This memorandum of understanding ("the Agreement") constitutes the agreement between the Dole/Kemp '96 and Clinton/Gore '96 General Committee, Inc. ("the Committees") regarding the rules that will govern any Presidential and Vice Presidential debates in 1996 ("debates"). This Agreement will be binding upon the Committees, and, if it agrees to sponsor the debates, on the Commission on Presidential Debates ("Commission"), and on any other entity that may sponsor these Presidential and Vice Presidential debates.

1. **Number**

There will be two (2) Presidential debates and one (1) Vice Presidential debate before live audiences. The parties agree that they will not (1) issue any challenges for additional debates, (2) appear at any other debate or adversarial forum with any other presidential or vice presidential candidate, or (3) accept any network air time offers that involve a debate format or otherwise involve the simultaneous appearance of more than one candidate.

2. **Dates**

The parties agree that the Presidential debates will be held on October 6, 1996 and October 16, 1996. The parties agree that the Vice Presidential debate will be held on October 9, 1996.

3. **Participants**

The participants in the two Presidential debates will be Bill Clinton and Bob Dole. The participants in the Vice Presidential debate will be Al Gore and Jack Kemp.

4. **Sponsorship**

The debate will be sponsored by the Commission, provided that the Commission agrees to all provisions of this Agreement. In the event that the Commission does not accept the provisions of this Agreement or is unable to fulfill the provisions of this Agreement, representatives of the two (2) candidates who are signatories to the Agreement will immediately use their best efforts to obtain a mutually agreeable alternate sponsor or sponsors for the debates on the dates set forth and only on the same terms and conditions agreed upon herein.

5. **Location**

The cities of Hartford, Connecticut; St. Petersburg, Florida; and San Diego, California will be the sites of the First Presidential debate, the Vice Presidential debate, and the Second Presidential debate, respectively.

9b 11:20-11 P.S.

6. Time

Each debate will last for a total of ninety (90) minutes, including all introductory proceedings, opening statements, questions, answers, and closing statements. All debates will start at 9:00 p.m. Eastern Daylight Time.

7. Process for selection of moderators

Representatives of each of the campaigns signatory to this agreement will promptly submit a list of one (1) or two (2) possible moderators to the other in accordance with the dates and times set forth below, Eastern Daylight Time:

Dates and times by when lists of moderators are to be submitted:

First Presidential debate by 5:00 p.m. on Saturday, September 28, 1996

Vice Presidential debate by 3:00 p.m. on Sunday, September 29, 1996

Second Presidential debate by 3:00 p.m. on Monday, September 30, 1996

Each side will then have the opportunity to approve or delete names from the other's proposed list. In the event a party fails to select any moderator from the list of the other party, the rejecting party will immediately notify the submitting party, and the submitting party will promptly submit additional names to the rejecting party. When each side agrees upon at least one (1) possible moderator from the other side's list, then these two (2) or more names will be submitted to the Commission which will then select at random one (1) of these individuals to be the moderator for the respective debate. If necessary, the process set forth in this paragraph will be repeated until the agreed upon number of names are submitted to the Commission. The same process will be followed for the second Presidential debate and for the Vice Presidential debate. There will be a different moderator for each of the three (3) debates.

8. Format

The First Presidential debate and the Vice Presidential debate will be a moderator-only format ("moderator debates"). The Second Presidential debate will be a moderator and audience participation format ("town hall debate"). Each debate will have a single moderator responsible for enforcing the rules set forth in this Agreement.

A. Moderator debate format.

This format applies to both moderator debates:

(i) The moderator will ask questions of candidates as provided in this section 8(A) In the First Presidential debate, each candidate will be entitled to an opening statement of not more than two (2) minutes in length. In the Vice Presidential debate, no opening statements will be permitted. The first question will be to the candidate who, as determined by the provisions of this Agreement, will give the first closing statement in this debate ("Candidate A"). The moderator will limit the question to not more than thirty (30) seconds. The moderator will not state the topic of the question prior to asking the question. The candidate will limit his response to ninety (90) seconds. The other candidate ("Candidate B") will have sixty (60) seconds to comment on the question or on Candidate A's answer. Candidate A may then respond for up to thirty (30) seconds. No follow-up questions by the moderator will be permitted and no cross-questions by the candidates or cross-conversation between the candidates will be allowed under these rules.

(ii) The moderator will then ask a question of Candidate B, with rebuttal and surrebuttal to be conducted pursuant to section 8(A)(i) of this agreement.

(iii) The moderator will then ask a question of Candidate A with all questioning thereafter to rotate between the two candidates. No questions will be asked of a candidate by the moderator if less than six minutes remain in the First and Second Presidential debates or if less than eight minutes remain in the Vice Presidential debate.

(iv) In the First Presidential debate, each candidate will be entitled to make a closing statement of not more than two (2) minutes in length. In the Vice Presidential debate, each candidate will be entitled to make a closing statement of not more than three (3) minutes in length.

(v) The moderator will open and close the debate and will use his or her best effort to enforce all time limits. The moderator will ensure that the question asked of the candidates are on a broad range of topics, including questions on foreign, domestic, and economic policy. There will be no limitations on topics. The moderator will vary the topics on which he or she questions the candidates, and will ensure that the topics of the questions are fairly apportioned between the candidates. The moderators may use any reasonable method to ensure that the agreed-upon format is followed by the candidates and the audience.

(vi) The positions for a) opening statements, b) answering the questions for each topic, and c) closing statements, will be determined by the flip of a coin conducted by the Commission in the presence of representatives of the Committees. The winner of the coin flip will choose either the A position or the B position below.

Opening statement	Answer First question	Closing statement
A (first)	A (first)	A (first)
B (second)	B (second)	B (second)

The positions of the Presidential candidates for the town hall debate will be reversed from their positions for the First Presidential debate. The Commission will conduct a separate coin toss for the Vice-Presidential debate, and the winner of that toss will choose either the A position, in which case the candidate will answer the first question and make the first closing statement, or the B position, in which case the candidate will answer the second question and make the second closing statement.

B. Moderator and audience participation format

(i) The Second Presidential debate will be a format featuring a single moderator with audience members asking questions ("the town hall debate") and will be governed by this section 8(B). The moderator will be selected according to the procedure described in section 7 above.

(ii) The moderator in the town hall debate will introduce the candidates, open and close the debate, and facilitate audience members in asking questions to each of the candidates. ~~The moderator will be permitted to ask brief follow-up questions to clarify or restate ambiguous questions.~~ The moderator will ensure that the questions asked alternate between the two candidates and that the subject matter of questions encompass a broad range of topics, including foreign, domestic and economic policy. There will be no limitations on topics. The moderator will attempt to limit excessively long questions and move the debate along. The moderator will exercise full authority and responsibility to select the questioners from the audience.

(iii) The moderator may move about the audience with a wireless microphone. The Commission will endeavor to seat the audience in a horseshoe configuration around the stage. In the event that this is not possible, the Commission will endeavor to seat the audience in an informal and intimate style that is conducive to the audience asking questions.

(iv) The town hall debate will take place in an appropriately small facility before a live audience of approximately 250 people who shall be seated and who describe themselves as likely voters who are "uncommitted" as to their 1996 Presidential vote. These participants will be selected by an independent research firm agreed upon by the Committees. The research firm will have sole responsibility for selecting the nationally demographically representative group of voters. There will be no advance submissions of questions to the candidates. There will be no stools used during the debate. The candidates will stand in a structure that will allow each candidate to move easily and directly to the front opening and which will accommodate the physical needs of the candidate. The structures shall be recommended by the Commission's executive producer and/or stage designer and mutually agreed upon by the representatives of both campaigns. The precise staging arrangement will be recommended by the Commission's executive producer and/or stage designer and mutually agreed upon by representatives of both campaigns.

11:21 AM

(v) Each candidate will have the option to make an opening statement that will not exceed two (2) minutes in duration and a closing statement that will not exceed two (2) minutes in duration. The order of statements will be determined by the procedure set forth in section 8(A)(vi) above. Additionally, the provision in section 8(D) below, concerning the candidates' entitlement to closing statements irrespective of whether the debate runs beyond the planned ending time shall apply to the town hall format.

(vi) The candidate who is asked the question from the audience will have ninety (90) seconds to respond. The other candidate will have sixty (60) seconds to rebut the answer, and the candidate who initially answered the question will have thirty (30) seconds for surrebuttal. No cross questioning or cross conversation between the candidates will be permitted.

(vii) Each candidate will be entitled to make a closing statement not to exceed two (2) minutes in duration.

(viii) Each candidate will have either a type of wireless, hand held microphone or a wireless lapel microphone to allow them to move about, as otherwise provided for in this paragraph, and to face different directions while responding to questions from the audience. Each candidate may choose his own microphone within the terms set forth in this paragraph, and the Commission will have at each debate at least one back-up microphone for each candidate. Each candidate may move about in a pre-designated area to be mutually determined at the site by the parties. The pre-designated areas of the candidates may not overlap.

(ix) All members of the audience will be requested by the moderator before the debate goes on the air and by the moderator after the debate goes on the air not to applaud or respond by any means other than silent observation, other than for persons selected by the moderator to ask questions of the candidates. The moderator will advise the audience prior to the debate that no audience responses will be permitted and that any member of the audience who violates this rule will be asked to leave the building.

C. Film Footage

It is agreed that neither film footage nor video footage from a debate may be used publicly by any candidates or candidate's campaign.

D. Closing Statements

Irrespective of whether a debate runs beyond the planned ending time, each candidate in the two Presidential debates will be entitled to make a closing statement not to exceed two (2) minutes in duration and each candidate in the Vice Presidential debate will be entitled to make a closing statement not to exceed three (3) minutes in duration. The Commission will use its best efforts to ensure that the TV networks carry the entire debate even if it runs past the specified ending time.

E. Manner of Address

Each candidate will determine the manner by which he prefers to be addressed by the moderators and will communicate this to the Commission.

9. Staging and production

A. When the debate programs go on the air, the candidates will be standing in place on the stage.

B. Other than as may be permitted by section 8(B) (town hall format) of this Agreement, the candidates will stand at separate podiums for each debate.

C. Other than as may be provided in Section 8(B) (town hall format), the Commission will construct the podiums, and each shall be identical to view from the audience side. These podiums will be constructed in a style mutually agreed upon by representatives of the signatories to this Agreement. Each podium shall measure fifty-two (52) inches from the stage floor to the outside top of the podium facing the audience, unless otherwise mutually agreed to by the representatives of both candidates participating in the debate. Other requirements for these podiums will be verbally transmitted to the Commission by representatives of the candidates. There will be no writings, markings or emblems of any kind on the fronts of the podiums. No candidate will be permitted to use risers or any other device to create an appearance of elevated height, and no candidate shall be permitted to use chairs, stools or other seating devices during the debates. Within these rules, the Commission will make every effort to accommodate any special requirements requested by the candidates.

D. The microphone for each candidate will be attached to the podium, and in no case will any microphone be physically attached to a candidate except during the town hall debate, as is otherwise provided in this Agreement.

E. For both Presidential debates, Bob Dole will occupy the stage-right position, and Bill Clinton will occupy the stage-left position. For the Vice Presidential debate, Al Gore will occupy the stage-left position, and Jack Kemp will occupy the stage-right position.

F. The podiums will be equally canted toward the center of the stage at a degree to be determined by the Commission's producer. The podiums will not be more than ten (10) feet apart from each other; nor will they be closer than eight (8) feet to each other; such distances will be measured from the left-right center of a podium to the left-right center of the podium immediately next to it.

G. All members of the audience will be instructed by the moderator before the debate goes on the air and by the moderator after the debate goes on the air not to applaud or otherwise participate in the debate by any means other than by silent observation. The moderator will use his or her best efforts to enforce this provision.

H. In the moderator debate, the moderator will be seated so as to be positioned between the candidates and the cameras to which the candidates may direct their answers.

I. Time cues will be given to a candidate when he has thirty (30) seconds remaining in his answer, and a separate and distinct time cue will be given to a candidate when he has fifteen (15) seconds remaining in his answer. The form of the time cues will be mutually agreed upon by the signatories to this Agreement. There will be a separate set of cues (one (1) for each candidate), and these cues will be large and in each candidate's direct line of sight to the camera to which he is giving his answer. The candidates will not be required to look up, down or sideways to see these cues.

J. Each candidate will be permitted to have a complete, private, production and technical briefing and walk-through ("Briefing") at the location of the debate on the day of the debate. Each candidate will have a maximum of one (1) hour for this Briefing. Production lock-down will not occur for any candidate until that candidate has had his Briefing.

K. There will be no filming or taping allowed during the candidates' Briefing.

L. All persons, including but not limited to the press; other candidates and their representatives; and the employees or other agents of the Commission other than those necessary to conduct the Briefing, shall vacate the debate site while a candidate has his Briefing. The Commission will provide to each candidate's representatives a written statement and plan which describes the measures to be taken by the Commission to ensure the complete privacy of all Briefings.

M. No press will be allowed into the auditorium where the debate will take place during the candidates' Briefing.

N. The candidates may take notes during the debate on the size, color, and type of paper each prefers. Each candidate must submit to the staff of the Commission prior to the debate all such paper and any pens or pencils with which a candidate may wish to take notes during the debate, and the staff of the Commission will place such paper, pens, and pencils on the podium of each candidate. No candidate will be permitted to take or use any notes, other written materials, props, or other material into the debate.

O. In addition to Secret Service personnel, the President's military aide, and the President's physician, each candidate will be permitted to have at least one (1) pre-

designated staff member in the wings or in the immediate backstage area during the debate. The number of staff permitted and their precise location will be mutually agreed upon by representatives of the Committees at each site. All other staff must vacate the wings or immediate backstage areas no later than five (5) minutes after the debate has begun and may not return sooner than five (5) minutes before the debate concludes. In addition, each candidate will be permitted to have one (1) pre-designated staff member in the production facility prior to and during the debate. A PL phone line will be provided between each candidate's staff member in the production facility and that candidate's staff work area. No other staff member may enter the production facility at any time during the debate.

P. Other than security personnel, not more than two (2) aides will accompany each candidate on the stage before the program begins.

Q. Each candidate shall be allowed to have one (1) still photographer present on the stage before the debate begins and in the wings during the debate, as desired, and on the stage immediately upon the conclusion of the debate. Photos taken by these photographers may be distributed to the press as determined by each candidate.

R. The color and style of the backdrop will be recommended by the Commission and mutually determined by the representatives of the Committees.

S. The set will be completed and lit no later than 3 p.m. at the debate site on the day before the debate will occur.

10. Cameras

A. Camera placement will be recommended by the Commission's producer and mutually agreed upon by the Committees.

B. Except for the town hall debate, TV cameras will be locked into placed during all debates. They may, however, tilt or rotate as needed.

C. TV coverage shall be limited to shots of the candidates and questioners. During the moderator debates, the shots will be limited to the moderator when he or she is asking the question or to the candidates when each candidate is answering the questions. Except for the town hall debate, in no case shall any television shots be taken of any member of the audience (including candidates' family members) from the time the first question is asked until the conclusion of the closing statements. During the town hall debate, one roving camera will be permitted, provided that such camera may be used only to take shots of the audience member asking the question during the time that he or she is asking the question.

D. There will be no tally lights lit on any of the cameras during the broadcast of the debate.

E. Each camera to which a candidate will direct his answers shall be distinctively marked so that each candidate can clearly determine where he should direct his remarks if desiring to do so into a camera.

F. There will be no TV cut-aways to any candidate who is not responding to a question while another candidate is answering a question nor to a candidate who is not giving an opening or closing statement while another candidate is doing so.

11 Ticket distribution and seating arrangements

A. Each candidate will directly receive one-third of the tickets for each moderator debate with the remaining one-third going to the Commission. Other than tickets for audience participants, there will be no tickets distributed in connection with the town hall debate, except the Commission will ensure that the immediate families of the respective candidates will be admitted to the town hall debate, as well as to the other debates.

B. It is the intent of the parties that the supporters of each candidate attending the debates be interspersed among supporters of the other candidate. The Commission will make every effort to ensure that supporters are properly interspersed. The immediate family members of each candidate will, however, be seated as described in paragraph (D) immediately below.

C. The Commission will invite from their allotment (two (2) tickets each) an agreed upon list of officeholders such as the U.S. Senate and House Majority and Minority Leaders, the Governor and Lieutenant Governor of the state holding the debate, that state's congressional delegation, appropriate state legislative representatives and the Mayor and City Council members of the city holding the debate.

D. In the event supporters of the candidates attending the debates cannot be seated as described in paragraph (B) immediately above then the following shall apply. Each candidate's family and supporters shall be given seats on the side of the auditorium from which their candidate is speaking. Each candidate shall have the first four (4) rows of his half of the auditorium for his personal use, and succeeding rows on his half of the auditorium will be made available for supporters of that particular candidate.

E. Any press seated in the auditorium can only be accommodated in the two (2) rows of the auditorium farthest from the podiums. Two (2) still-photo pool stands may be positioned near either side of the TV camera stands located in the audience. (A press center with all necessary feeds will be otherwise available.)

F. Tickets will be delivered by the Commission to the campaign manager of each candidate's campaign or his representative by 12:00 noon on the day preceding the debate.

12. Dressing Rooms/Holding Rooms

A. Each candidate will have a dressing room available of adequate space for the staff the candidate desires to have in this area. An equal number of other backstage rooms will be available for other staff members of each candidate. All of these rooms may be furnished as deemed necessary by the candidates' representatives. Each candidate's rooms will be reasonably segregated from those designated for the other candidate. If sufficient space is not available, the Commission will rent a trailer of adequate size for each candidate and his staff to use. The number of individuals allowed in these rooms or trailers shall be determined by each candidate. Backstage passes (if needed) will be issued to the candidates' representatives as requested. The Commission will not restrict the issuance of these passes. The rooms mentioned in the preceding paragraph will be available at least seventy two (72) hours in advance of the beginning of each debate.

B. The Commission will provide each candidate with a direct television feed from the production truck to two (2) monitors placed in the candidate's dressing room and staff holding rooms as requested by the candidate's representatives. In addition, the Commission will provide four (4) additional functioning TV sets for each candidate. These sets will be located as desired by representatives of each candidate.

C. Each candidate may use his own make-up person, and adequate facilities will be provided at the debate site for make-up.

13. Press

A. Each candidate will receive not less than thirty (30) press passes for the Press Center and more if mutually agreed upon by the Committees.

B. Each candidate will be allowed to have an unlimited number of people in the Press Center upon the conclusion of the debate.

C. The Commission will be responsible for all press credentialing.

Sonally from Paul Rae

14. Amendments

This Agreement will not be changed or amended except in writing signed by both persons who signed this Agreement or their designees.

Clinton/Gore '96



by:

date: 9/28/96

Dole/Kemp '96



by:

date: 9/28/96

Exhibit D:

The CPD's candidate selection criteria for the 1988, 1992 and 1996 general election presidential debates.

1. *Evidence of National Organization* The Commission's first criterion considers evidence of national organization. This criterion encompasses objective considerations pertaining to the eligibility requirements of Article II, Section 1 of the Constitution and the operation of the electoral college. This criterion also encompasses more subjective indicators of a national campaign with a more than theoretical prospect of electoral success. The factors to be considered include. (a) satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution of the United States, (b) placement on the ballot in enough states to have a mathematical chance of obtaining an electoral college majority, (c) organization in a majority of congressional districts, (d) eligibility for matching funds from the Federal Election Commission or other demonstration of the ability to fund a national campaign, and endorsements by federal and state officeholders.

2. *Sign of National Newsworthiness and Competitiveness* The Commission's second criterion endeavors to assess the national newsworthiness and competitiveness of a candidate's campaign. The factors to be considered focus both on the news coverage afforded the candidacy over time and the opinions of electoral experts, media and non-media, regarding the newsworthiness and competitiveness of the candidacy at the time the Commission makes its invitation decisions. The factors to be considered include: (a) the professional opinions of the Washington bureau chiefs of major newspapers, news magazines, and broadcast networks, (b) the opinions of a comparable group of professional campaign managers and pollsters not then employed by the candidates under consideration, (c) the opinions of representative political scientists specializing in electoral politics at major universities and research centers, (d) column inches on newspaper front pages and exposure on network telecasts in comparison with the major party candidates, and (e) published views of prominent political commentators.

3. *Indicators of National Enthusiasm or Concern* The Commission's third criterion considers objective evidence of national public enthusiasm or concern. The factors considered in connection with this criterion are intended to assess public support for a candidate, which bears directly on the candidate's prospects for electoral success. The factors to be considered include. (a) the findings of significant public opinion polls conducted by national polling and news organizations, and (b) reported attendance at meetings and rallies across the country (locations as well as numbers) in comparison with the two major party candidates.



[Mission](#)
[Commission History](#)
[Commission Leadership](#)
[Candidate Selection Process](#)
[Site Selection Criteria](#)
[National Sponsorship](#)
[Web Links](#)
[Research & Symposium](#)
[Reports Urging the CPD's Creation](#)
[Voter Education Partners](#)
[Contact Us](#)

About CPD Candidate Selection Process

COMMISSION ON PRESIDENTIAL DEBATES' CANDIDATE SELECTION CRITERIA FOR 1996 GENERAL ELECTION DEBATE PARTICIPATION

A Introduction

The mission of the Commission on Presidential Debates ("the Commission") is to ensure for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice President of the United States. The Commission sponsored a series of such debates in 1988 and again in 1992, and has begun the planning, preparation, and organization of a series of nonpartisan debates among leading candidates for the Presidency and Vice Presidency in the 1996 general election.

The goal of the Commission's debates is to afford the members of the voting public an opportunity to sharpen their views of those candidates from among whom the next President or Vice President will be selected. In light of the large number of declared candidates in any given presidential election, the Commission has determined that its voter education goal is best achieved by limiting debate participation to the next President and his or her principal rival(s).

A Democratic or Republican nominee has been elected to the Presidency for more than a century. Such historical prominence and sustained voter interest warrants the extension of an invitation to the respective nominees of the two major parties to participate in the Commission's 1996 debates.

In order to further the educational purposes of its debates, the Commission has developed nonpartisan criteria upon which it will base its decisions regarding selection of nonmajor party candidates to participate in its 1996 debates. The purpose of the criteria is to identify nonmajor party candidates, if any, who have a realistic (i.e., more than theoretical) chance of being elected the next President of the United States and who properly are considered to be among the principal rivals for the Presidency. The realistic chance of being elected need not be overwhelming, but it must be more than theoretical.

The criteria contemplate no quantitative threshold that triggers automatic inclusion in a Commission-sponsored debate. Rather, the Commission will employ a multifaceted analysis of potential electoral success, including a review of (1) evidence of national organization, (2) signs of national newsworthiness and competitiveness, and (3) indicators of national enthusiasm or concern, to determine whether a candidate has a sufficient chance of election to warrant inclusion in one or more of its debates.

Judgments regarding a candidate's election prospects will be made by the Commission on a case-by-case basis. However, the same multiple criteria will be applied to each nonmajor party candidate. Initial determinations with respect to candidate selection will be made after the major party conventions and approximately contemporaneously with the commencement of the general election campaign. The number of debates to which a qualifying nonmajor party candidate will be invited will be determined on a flexible basis as the general election campaign proceeds.

B 1996 Nonpartisan Selection Criteria

The Commission's nonpartisan criteria for selecting nonmajor party candidates to participate in its 1996 general election presidential debates include:

1 Evidence Of National Organization

The Commission's first criterion considers evidence of national organization. This criterion encompasses objective considerations pertaining to the eligibility requirements of Article II, Section 1 of the Constitution and the operation of the electoral college. This criterion also encompasses more subjective indicators of a national campaign with a more than theoretical prospect of electoral success. The factors to be considered include:

- a. Satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution of the United States
- b. Placement on the ballot in enough states to have a mathematical chance of obtaining an electoral college majority
- c. Organization in a majority of congressional districts in those states
- d. Eligibility for matching funds from the Federal Election Commission or other demonstration of the ability to fund a national campaign, and endorsements by federal and state officeholders

2 Signs Of National Newsworthiness and Competitiveness

The Commission's second criterion endeavors to assess the national newsworthiness and competitiveness of a candidate's campaign. The factors to be considered focus both on the news coverage afforded the candidacy over time and the opinions of electoral experts, media and non-media, regarding the newsworthiness and competitiveness of the candidacy at the time the Commission makes its invitation decisions. The factors to be considered include:

- a The professional opinions of the Washington bureau chiefs of major newspapers, news magazines, and broadcast networks
- b The opinions of a comparable group of professional campaign managers and pollsters not then employed by the candidates under consideration
- c The opinions of representative political scientists specializing in electoral politics at major universities and research centers
- d Column inches on newspaper front pages and exposure on network telecasts in comparison with the major party candidates
- e Published views of prominent political commentators

3 Indicators Of National Public Enthusiasm Or Concern

The Commission's third criterion considers objective evidence of national public enthusiasm or concern. The factors considered in connection with this criterion are intended to assess public support for a candidate, which bears directly on the candidate's prospects for electoral success. The factors to be considered include:

- a The findings of significant public opinion polls conducted by national polling and news organizations
- b Reported attendance at meetings and rallies across the country (locations as well as numbers) in comparison with the two major party candidates

[Back to top](#)

[Home](#) | [About CPD](#) | [Debate History](#) | [Media](#) | [Voter Education](#) | [Sitemap](#)